

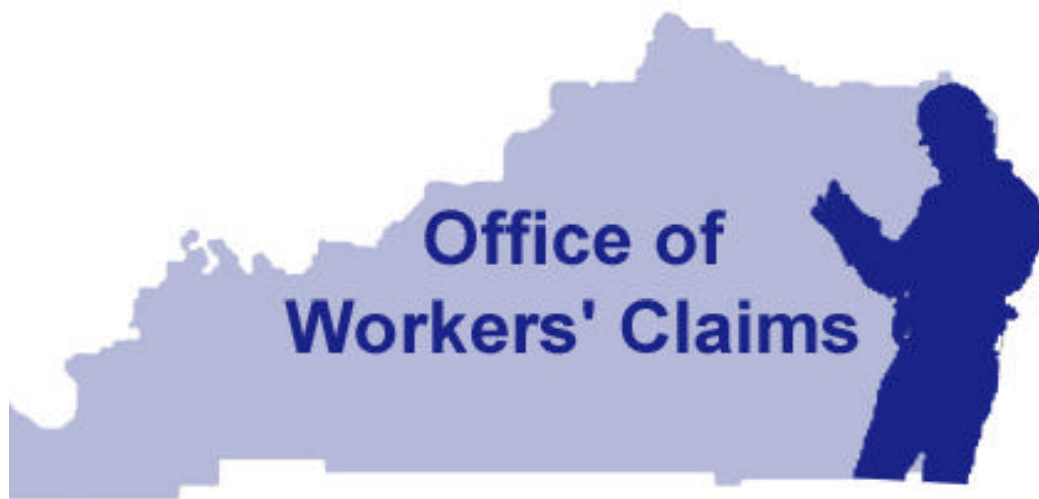
Kentucky Office of Workers' Claims



Office of Workers' Claims



Annual Report
Fiscal Year
2004-2005



Kentucky Office of Workers' Claims Mission Statement

Resourceful administration of Kentucky's workers' compensation program
with equitable and expedient processing of claims

PERFORMANCE OBJECTIVES

**To assure prompt delivery of statutory benefits, including medical
services and indemnity payments**

To provide timely and competent services to stakeholders

**To foster stakeholder knowledge of rights and responsibilities under the
Workers' Compensation Act**

**To encourage stakeholder involvement in the development of policy and
delivery mechanisms**

**To provide the public and policy makers with accurate and current
indicators of program performance**

**To anticipate changes in the program environment and respond
appropriately**

No individual in the United States shall, on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, be excluded from participation in, or denied benefits of, or be subjected to discrimination under any program or activity under the jurisdiction of the Kentucky Department of Labor.

PRINTED WITH STATE FUNDS

This agency does not discriminate on the basis of race, color, national origin, religion, age or disability in employment or provisional services.



ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

DEPARTMENT OF LABOR
OFFICE OF WORKERS' CLAIMS
657 CHAMBERLIN AVENUE
FRANKFORT, KENTUCKY 40601
PHONE (502) 564-5550
www.kentucky.gov

November 18, 2005

Honorable Ernie Fletcher
Governor
Capitol Building
700 Capitol Avenue, Suite 100
Frankfort, Kentucky 40601

Dear Governor Fletcher:

In accordance with KRS 342.230 and KRS 342.435, it is my privilege to submit to you the Annual Report of the Office of Workers' Claims for fiscal year 2004-2005. This Annual Report details steps taken by this Office in our quest to assure prompt delivery of statutory benefits in an impartial and expedient manner.

This report includes program performance statistics giving an overview of the numbers of traumatic injuries and occupational disease claims filed, details of first reports of injury, and other information such as awards made, claims rejected, and appeals from Administrative Law Judges to the Workers' Compensation Board, the Kentucky Court of Appeals, and/or the Supreme Court.

As Executive Director of the Office of Workers' Claims, I am charged with the mission of "resourceful administration of Kentucky's workers' compensation program" and it is my goal to diligently execute these duties.

I welcome your suggestions for continuous improvement as we progress into this new era. With a focus on service, I am excited about the ways in which we are building momentum to meet Kentucky's needs.

Sincerely,

A handwritten signature in blue ink, reading "William P. Emrick".

William P. Emrick
Executive Director
Office of Workers' Claims

**Commonwealth of Kentucky
Office of Workers' Claims**

Prevention Park
657 Chamberlin Avenue
Frankfort, Kentucky 40601

Web site <http://www.labor.ky.gov/workersclaims>

Executive Director
William P. Emrick

WORKERS' COMPENSATION BOARD
(859) 246-2773

ADMINISTRATIVE LAW JUDGES
Sheila C. Lowther
Chief Administrative Law Judge
(502) 564-5550

In addition to the Frankfort Office, OWC specialists and ombudsmen may be contacted at the following offices for information and assistance regarding workers' compensation issues:

Toll free 800-554-8601

410 West Chestnut Street, Suite 700
Louisville, Kentucky 40202
Telephone 502-595-4146
Fax 502-595-4146
Toll free 866-874-0006

220-B North Eighth Street
Paducah, Kentucky 42001
Telephone 270-575-7048
Fax 270-575-7025
Toll free 800-554-8603

145 East Center Street
Madisonville, Kentucky 42431
Telephone 270-824-7023
Fax 270-824-7603
Toll free 866-874-0005

131 Summit Drive, Suite 103
Pikeville, Kentucky 41501
Telephone 606-433-7661
Fax 606-433-7798
Toll free 800-554-8602

Table of Contents

Crackdown on Employers Not Carrying Workers' Compensation Insurance	7
Kentucky's Workers' Compensation Program Overview	8
Office Of Workers' Claims Organizational Chart	11
Program Statistics	12
First Reports of Injury	13
Distribution of Lost Time Injuries by SIC	14
Workers' Compensation Claims	15
Distribution of Claims by Body Part	16
Comparison of County Labor Force, FROIs, and Claims	17
Work-Related Fatalities	20
Fiscal Performance	21
OWC Personnel Ad Budget History	22
Office of Administrative Services	23
Technical Support & Design and Development	24
Office of General Counsel	25
Administrative Law Judges	26
Attorney Fees Awarded During FY 2004-05	26
Summary of FY 04-05 Significant Workers' Compensation Cases	27
Kentucky Workers' Compensation Adjudication Timeline	30
Division of Claims Processing and Appeals	32
Claims Processing Branch	33
Appeals Branch	34
Division of Information and Research	35
Records Branch	36
Imaging Branch	38

Table of Contents

Division of Security & Compliance	39
Self-Insurance Branch	40
Enforcement Branch.....	40
Coverage Branch	42
 Constituent Services	 43
Medical Services Section.....	45
Managed Care	45
Utilization Review and Medical Bill Audit	45
2005 Physicians Fee Schedule	45
Hospital Fee Schedule	46
University Evaluations	46
B-Reader Consensus Panel and Black Lung	46
Vocational Rehabilitation	47
 Key Personnel	 49

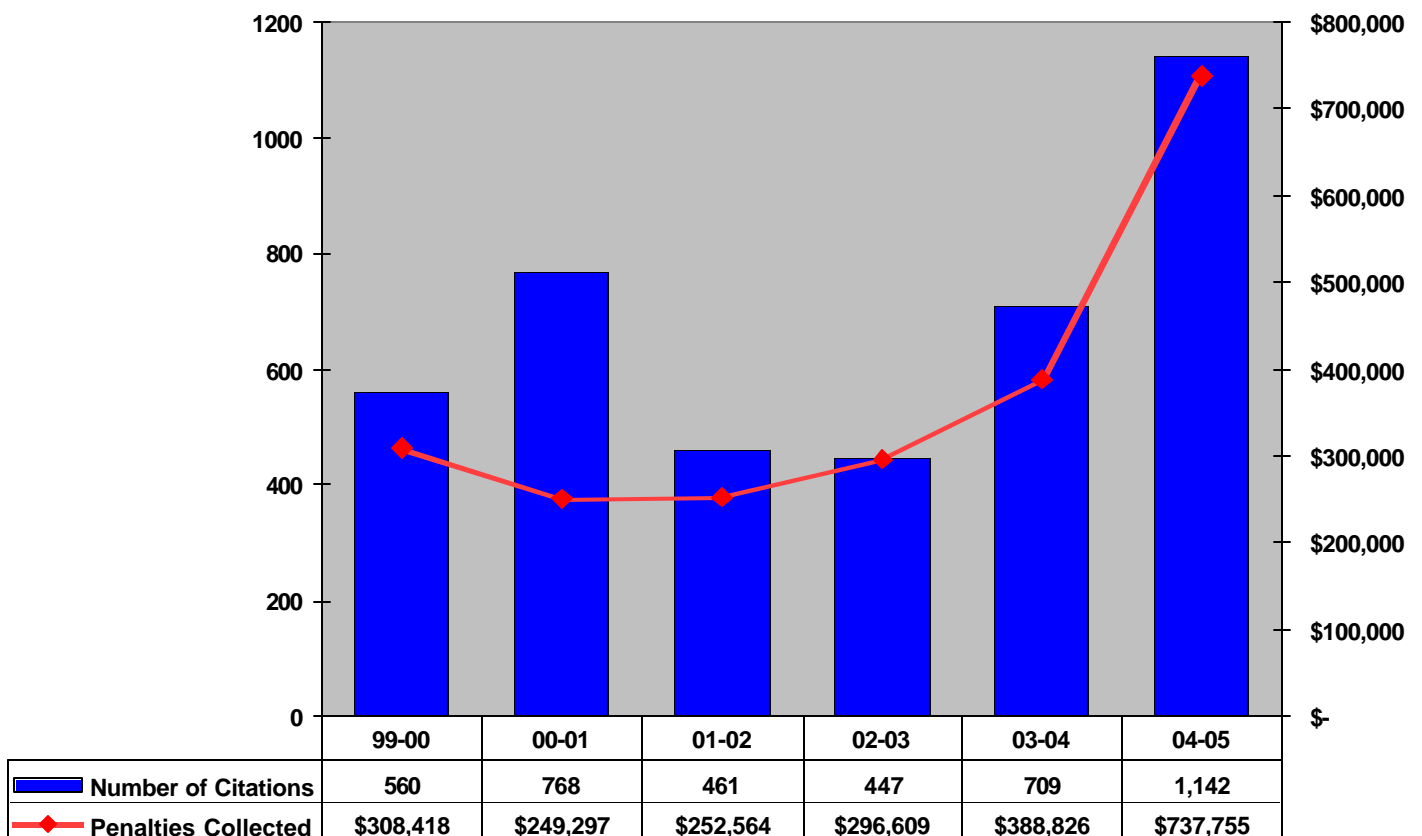
Crackdown on Employers Not Carrying Workers' Compensation Insurance

The state of Kentucky requires any employer with more than one employee to carry workers' compensation coverage. The Office of Workers' Claims, **Enforcement Branch**, led the fight against employers who do not carry workers' compensation insurance. These employers were hit with more than 1,000 citations during the 2004-2005 fiscal year. The total penalties collected, while not a priority, was an Office record of \$737,755.

The Enforcement Branch's nine officers conducted 10,474 investigations. This number reflects the largest number of investigations since fiscal year 2001-2002. These investigations resulted in 1,142 citations for civil penalties being issued by the Executive Director to noncomplying employers. Penalties in the amount of \$737,755 were assessed upon employers who were not carrying workers' compensation insurance. Investigations are conducted on businesses based upon public complaints, reports of employee injuries, and random inspections. During this reporting period, citations were issued in the following industries: trucking, manufacturing, construction, retail, and professional service industries.

Regular inspections of employers to verify compliance is a vital function of this Branch. The following chart illustrates an analysis of yearly citations and penalties issued to noncomplying employers in furthering this goal.

Investigation Analysis by Fiscal Year



Kentucky's Workers' Compensation Program Overview

The Office of Workers' Claims (OWC) has the overall authority and oversight responsibility for operation of Kentucky's Workers' Compensation Program under Chapter 342 of the Kentucky Revised Statutes. The OWC is administratively attached to the Kentucky Department of Labor. The primary purpose of Kentucky's Workers' Compensation Act is to restore an income stream to an injured worker to the extent it has been severed by an industrial injury or occupational disease; to provide timely medical services for the cure or relief of the injury; and, to provide rehabilitation and retraining services to injured workers unable to return to their former jobs. The primary goal of the OWC is to assure prompt delivery of statutorily enacted benefits, by providing an expedient processing of injury and occupational disease claims through a non-adversarial process, including mediation, and resolution of disputes through prompt adjudication by administrative law judges (ALJs).

The General Assembly enacted sweeping reforms to the program in December of 1996 upon call of a special session by the Governor (House Bill 1). Total cost in premium dollars of the Kentucky systems in 1996 was equivalent to four times the businesses' state corporate income tax liability. The Kentucky Coal industry was in crisis. Premiums in the coal industry had risen 89% in the preceding two years. The number of workers receiving awards in the previous seven years had more than doubled, despite no evidence of increase in on-the-job injuries.

Legislation in the Workers' Compensation Reform of 1996 was enacted, which focused on critical objectives of fairness to injured workers and affordability for employers who pay for the system. Benefit levels were based on objective impairment ratings under the American Medical Association (AMA) Guides to Functional Impairment; benefit liability was terminated

when an injured employee reached 65 years of age; "Injury" was redefined to end subjective decision-making by ALJs. Guaranty Funds were created for all self-insured employers to offset termination of benefits if employers became insolvent or bankrupt.

The General Assembly in 2000 (House Bill 992) increased benefit levels for traumatic injury by taking a worker's age and educational level into account. HB 992 also increased death benefits; enhanced penalties against employers for safety violations



which result in work injury; reduced the level of adjudication by eliminating arbitrators; and, reinstated the Workers' Compensation Board for administrative appeal from ALJs before appeal to the appellate courts were authorized. Additional refinement to the law was made during the 2002 General Assembly (House Bill 348) providing that coal miners who leave the coal mining industry and are determined to suffer from the occupational disease of coal worker's pneumoconiosis (black lung) should have opportunity to make transition to other employment by education and retraining programs. Miners who are 57 years of age at the time of their last exposure to coal dust could be entitled to monetary indemnity payments.

The OWC is organized administratively into the Office of the Executive Director, four Divisions, the Office of General Counsel and the Office of Administrative Services. The Executive Director is appointed by the Governor from a list of three candidates nominated by the Workers' Compensation Nominating Commission. The Executive Director must receive confirmation from the Kentucky State Senate in accordance with procedures established in KRS 342.213, KRS 342.228 and KRS 11.160. There are four major administrative divisions within the OWC under the immediate supervision of the Executive Director. These include: Division of Claims Processing and Appeals; Division of Security and Compliance; Division of Information and Research; and, Division of Ombudsmen and Workers' Compensation Specialists. Each division is headed by a division director.

The OWC also includes an adjudicative function. Statutory enactment authorizes 19 ALJs. There are currently 16 ALJs employed who make decisions in claims filed before the Office. Each ALJ is appointed by the Governor for a term of four years from a list of three names submitted by the Workers' Compensation Nominating Commission. Each ALJ must be confirmed by the Kentucky State Senate. KRS 342.230, KRS 11.160. One ALJ is appointed Chief ALJ by the Governor who assists the Executive Director by scheduling hearing dockets; providing supervision of ALJs; handling emergency dockets; and assisting the Executive Director in providing educational training of ALJs. Claims are heard in 12 hearing sites located geographically throughout the state for convenience of employees and employers.

The WCB consists of three members appointed by the Governor for staggered terms of four years, from a list of three candidates submitted to the Governor by the Kentucky Workers' Compensation Nominating Commission. Confirmation by the Kentucky State Senate is required; KRS 342.215, KRS 11.160. Members of the WCB must possess the same qualifications as judges of the Court of Appeals. One member is appointed by the Governor as Chair of the Board. The WCB renders opinions in appeals taken from decisions by ALJs. Any further appeal is taken by direct appeal to the Kentucky Court of Appeals and thereafter to the Kentucky Supreme Court. Rules adopted by the Supreme Court authorize such appeals from the WCB to the judiciary.

Because of rising costs of health care, the General Assembly requires the Executive Director to promulgate regulations and implement fee schedules to contain cost of medical services provided to injured workers. The schedule of fees must be fair, current and reasonable. Currently, fees paid for medical services are regulated by three specific regulations: (1) Workers' Compensation Medical Fee Schedule for Physicians; (2) Workers' Compensation Hospital Fee Schedule; and, (3) Workers' Compensation Pharmacy Fee Schedule. The organization of the OWC further undertakes other cost containment measures by statutory

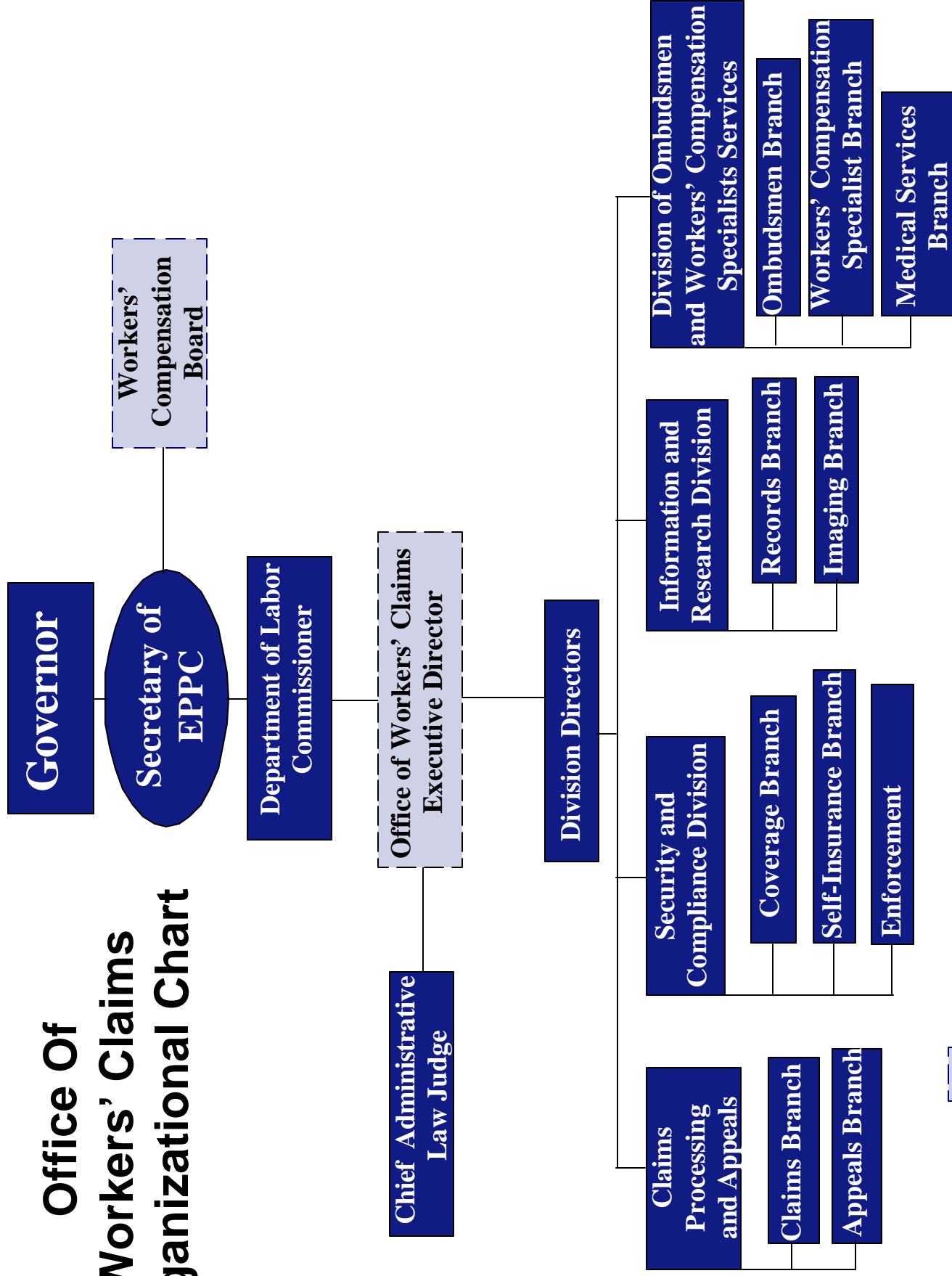
directives: Managed Health Care Programs, Utilization Review Programs and Medical Bill Audit Programs must be certified by the Executive Director. These are implemented in an effort to contain health care costs while striking the balance required by statute of providing quality medical care to injured workers at a price employers can afford.

The OWC, moreover, enforces the mandatory workers' compensation coverage statutes with citations and fines against employers who fail or refuse to cover their workers' compensation liability with insurance; and, assesses fines against insurance carriers who violate the unfair claims settlement practice statutory provisions of the Act.



The funding source for 100% of the Workers' Claims' budget is provided by the Workers' Compensation Funding Commission whose purpose is to collect assessments levied upon workers' compensation insurance premiums paid by employers and a simulated premium for self-insured employers. The Funding Commission invests and manages such assessed funds pursuant to KRS 342.122. These assessments are restricted trust and agency funds segregated from other public and state monies.

Office Of Workers' Claims Organizational Chart



Attached for Administrative Purposes only

Program Statistics



First Reports of Injury

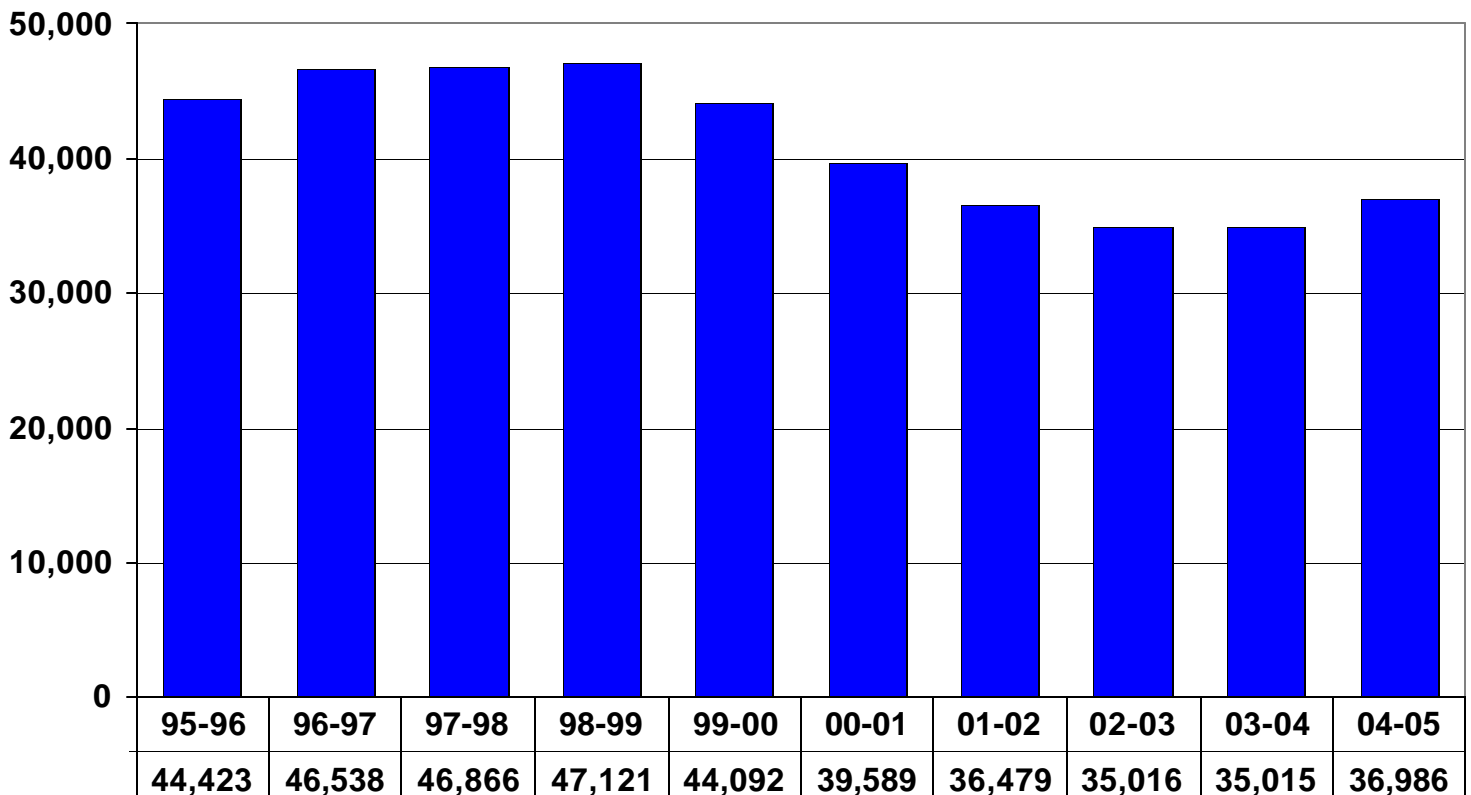
Kentucky Revised Statute 342.038 mandates that employers keep a record of all workplace injuries or fatalities received by employees. Upon employee notification, when more than one day of work is lost, the employer has three days to inform their workers' compensation insurance carrier or third party administrator. The employers' insurance carrier or party responsible for workers' compensation benefits then has one week after notification of the injury or fatality to file a First Report of Injury with the Office of Workers' Claims. Failure to comply with this reporting requirement may result in penalties pursuant to KRS 342.990.

In fiscal year 2004-2005, there were 36,986 lost time First Reports of Injury filed with the Office of Workers' Claims (meaning that these injured workers missed more than one day of work).

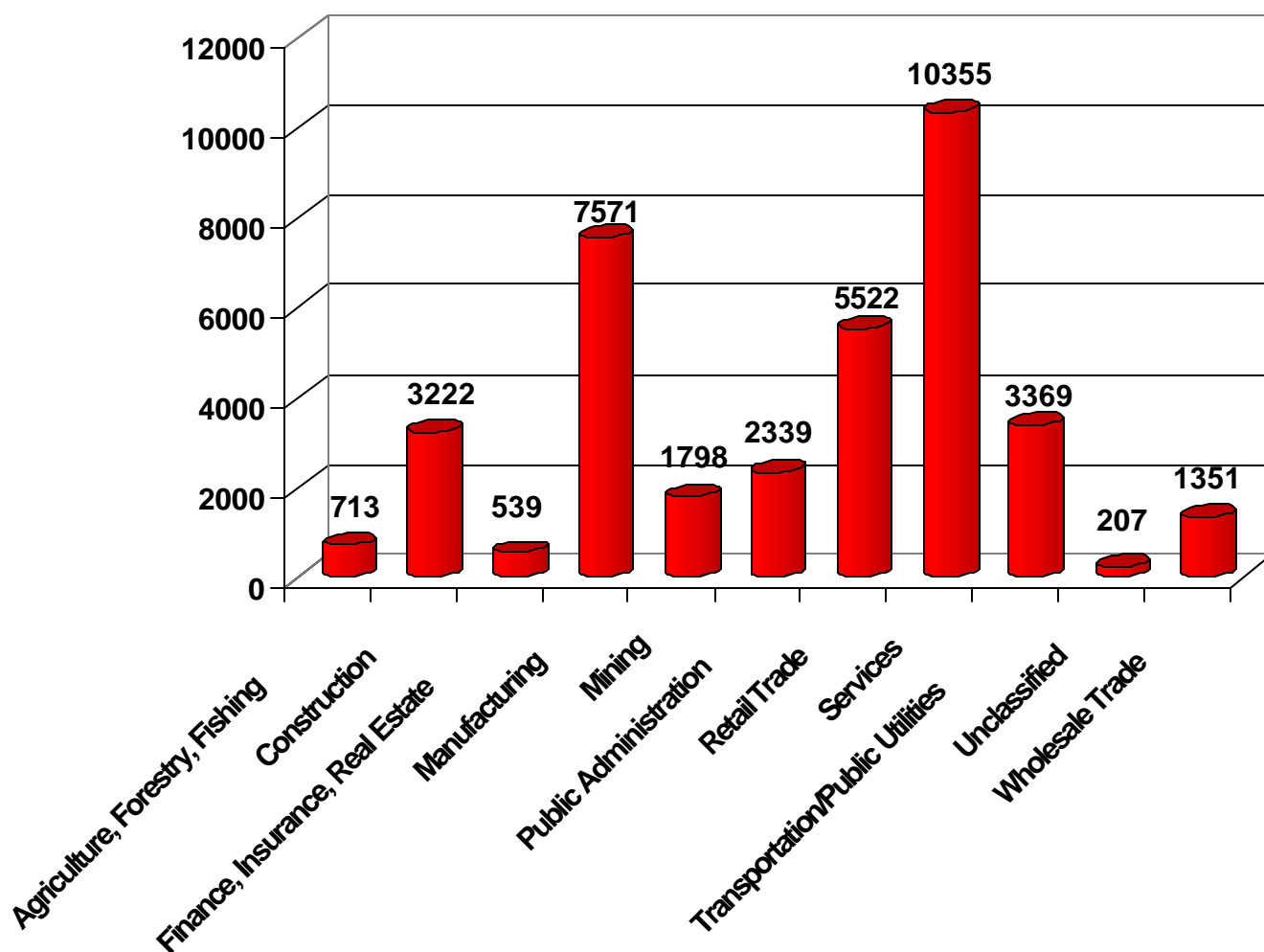
The three most common types of work-related injuries reported in fiscal year 2004-2005 were caused by lifting (7,073), falls (6,499), and strains (3,426).

Review of the nature of injuries revealed that strains (14,284) and contusions (4,201) accounted for almost half of all reported injuries. There were 2,493 lacerations and

First Reports of Injury by Fiscal Year



Distribution of Lost Time Injuries by Standard Industrial Classification



2,427 sprains reported. Fractures were reported in 2,401 of the injuries received by the Office of Workers' Claims.

Of the information that was reported to the Office of Workers' Claims, the low back area (including lumbar and lumbosacral) had the highest number of injuries (6,766). The second most commonly injured area was multiple body parts including systems (4,186) and third was injuries to the knee (3,035). This closely mimics the lost time reports of the previous fiscal year.

Examination of the distribution of lost time injuries by nature type revealed an Injury count of 35,130, an Other Occupational Disease count of 1,410, a Hearing Loss count of 226, and a Coal Workers' Pneumoconiosis count of 220.

The average age of an injured employee during this reporting period was 39. The average age for males was 38, and the average age for females was 40.

Workers' Compensation Claims

A workers' compensation claim in Kentucky originates when one of two things happens. A settlement document is filed to voluntarily resolve workers' compensation issues between parties; or a claim application is filed because the parties are not in agreement and the matter must be resolved by an Administrative Law Judge.

Workers' compensation claims are typically divided into two types; indemnity and medical-only. Indemnity claims are those for which income benefits are paid to compensate for lost wages, functional impairment or death. Medical service costs are paid in addition to income payments.

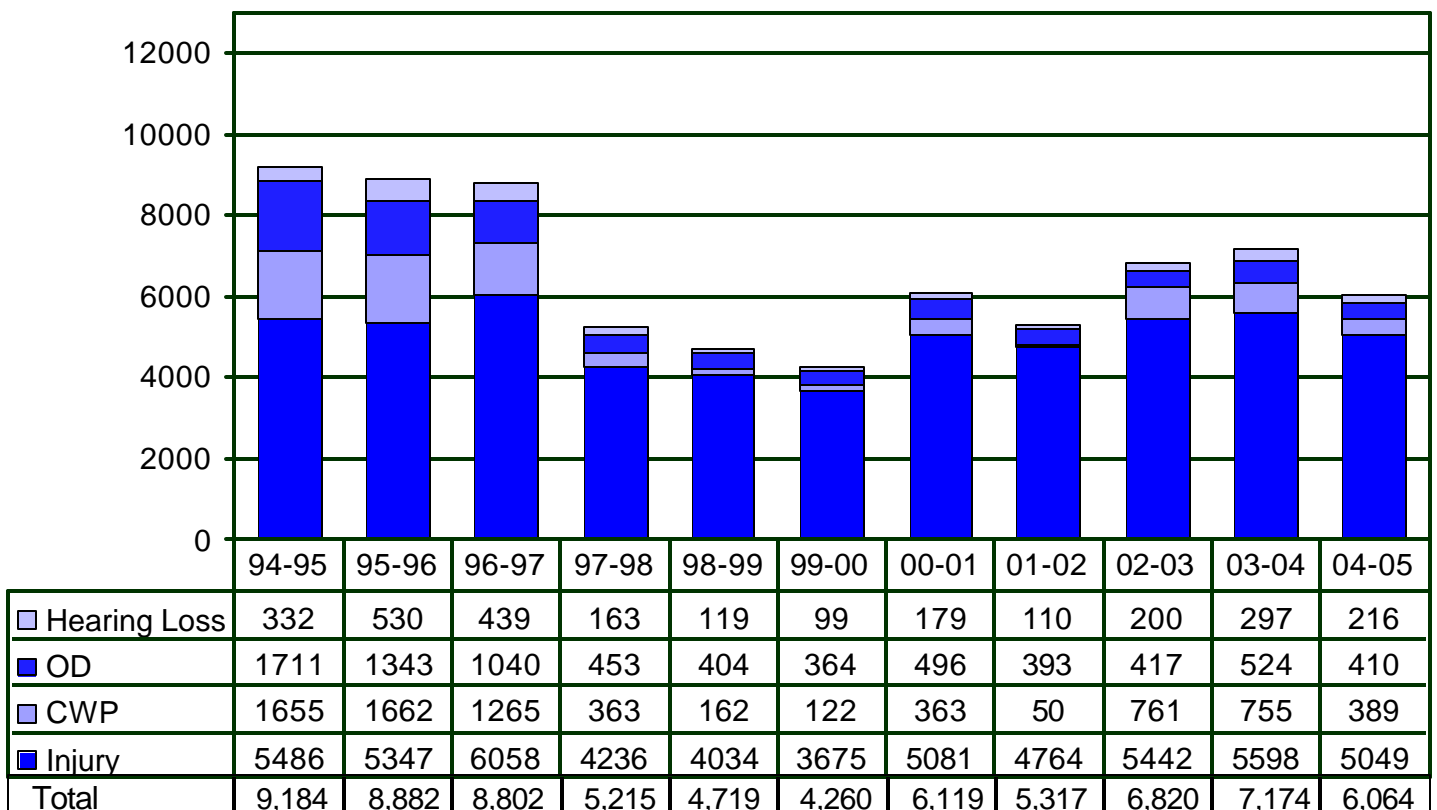
Most of the data in this report pertains to indemnity claims. Presently, there is no

statutory requirement stating that employers or their insurance carriers report medical-only injuries to OWC.

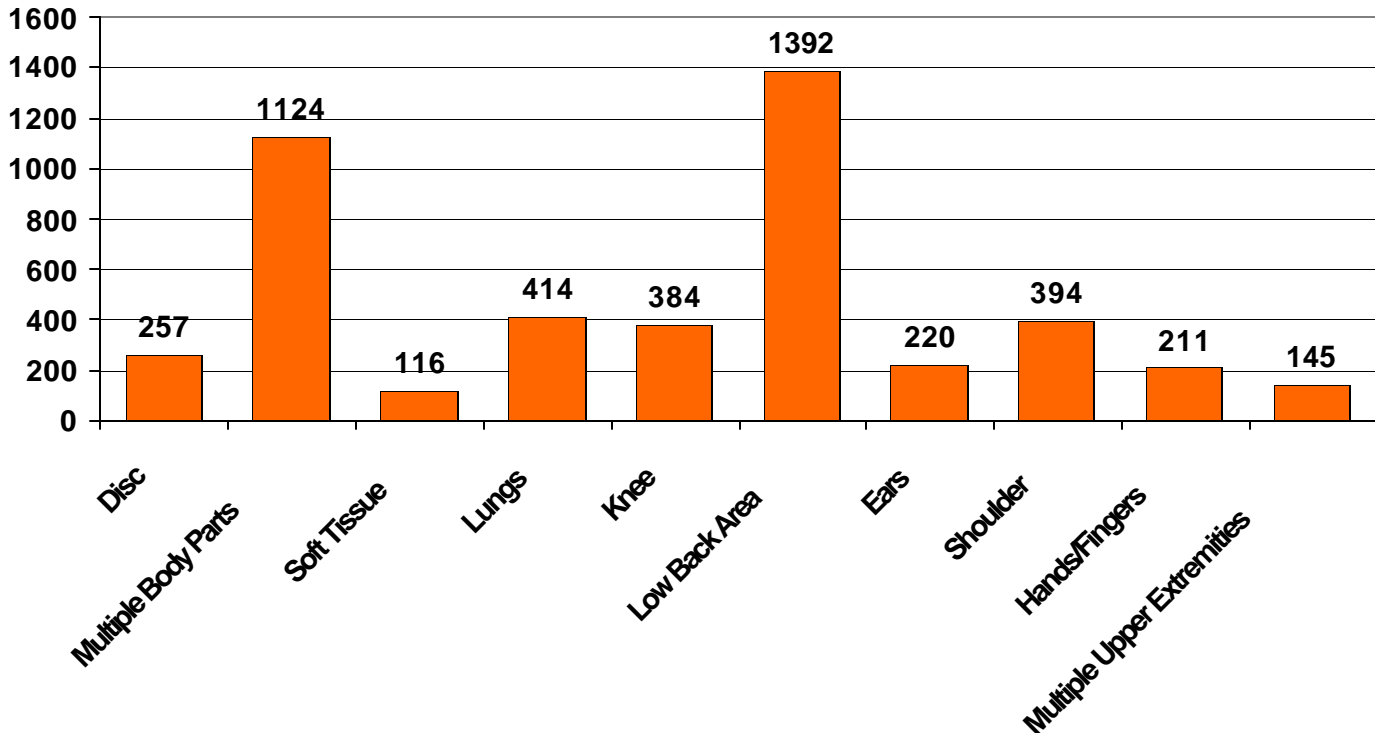
For an injury to be compensable, it must be a direct result of the employee's work. To be considered for temporary total income benefits, an injured worker must miss more than seven days of work. Medical-only claims are those where medical services are delivered but the employee does not qualify for income benefits.

In fiscal year 2004-2005, there were 6,064 requests for resolution of claims filed with the Office of Workers' Claims. This is the lowest number of claims since fiscal year 2001-2002.

Claims Filed by Fiscal Year



Distribution of Claims by Body Part Top Ten



Of the 6,064 claims that were filed this fiscal year, 1,978 claims were filed by females (33%) and 4,058 were filed by males (66%). There were 28 claims with no gender specified (less than 1%). The average age of those who filed claims with the OWC was 42 years.

Men filed the majority of claims in all Standard Industrial Classifications (SIC) except Retail Trade and Services.

The SIC category with the greatest number of claims filed was Manufacturing (1,270) followed by Services (1,236). The remaining SIC categories had the following number of claims: Mining (1,147), Retail Trade (660), Construction (612), Transportation/Public Utilities (528), Public Administration (227), Wholesale Trade (188), Agriculture, Forestry, Fishing (67), Finance, Insurance, Real Estate (65), and Unclassified (64).

In reviewing litigated injury claims, the three most common causes of injury during this reporting period were lifting (994), falls (959) and strains (522).



A Comparison by County Labor Force, Lost Time First Reports of Injury (FROI) and Litigated Claims

County	Total Labor Force	FROIs	% of FROIs to Labor Force	Claims	% of Claims to FROIs
Adair	8,458	90	1.06%	12	13.33%
Allen	8,620	58	0.67%	12	20.69%
Anderson	10,428	83	0.80%	10	12.05%
Ballard	4,104	41	1.00%	3	7.32%
Barren	19,712	334	1.69%	30	8.98%
Bath	4,992	59	1.18%	7	11.86%
Bell	9,541	252	2.64%	84	33.33%
Boone	54,615	1,078	1.97%	147	13.64%
Bourbon	9,738	264	2.71%	21	7.95%
Boyd	22,834	561	2.46%	173	30.84%
Boyle	12,741	290	2.28%	41	14.14%
Bracken	4,335	11	0.25%	2	18.18%
Breathitt	5,538	80	1.44%	20	25.00%
Breckenridge	8,903	55	0.62%	4	7.27%
Bullitt	34,112	287	0.84%	31	10.80%
Butler	5,804	60	1.03%	4	6.67%
Caldwell	6,395	108	1.69%	7	6.48%
Calloway	17,416	301	1.73%	43	14.29%
Campbell	46,237	454	0.98%	70	15.42%
Carlisle	2,343	17	0.73%	1	5.88%
Carroll	5,463	150	2.75%	20	13.33%
Carter	13,268	132	0.99%	24	18.18%
Casey	7,163	71	0.99%	8	11.27%
Christian	26,715	569	2.13%	54	9.49%
Clark	16,725	384	2.30%	56	14.58%
Clay	7,144	126	1.76%	20	15.87%
Clinton	4,772	70	1.47%	7	10.00%
Crittenden	4,018	48	1.19%	5	10.42%
Cumberland	3,031	44	1.45%	1	2.27%
Daviess	46,245	1,325	2.87%	99	7.47%
Edmonson	5,280	15	0.28%	3	20.00%
Elliott	2,840	14	0.49%	3	21.43%
Estill	6,045	47	0.78%	7	14.89%
Fayette	146,764	2,931	2.00%	410	13.99%
Fleming	6,756	63	0.93%	11	17.46%
Floyd	14,592	415	2.84%	186	44.82%
Franklin	25,386	821	3.23%	108	13.15%
Fulton	2,939	63	2.14%	14	22.22%
Gallatin	3,990	28	0.70%	3	10.71%
Garrad	7,529	67	0.89%	11	16.42%
Grant	12,264	91	0.74%	12	13.19%
Graves	16,953	221	1.30%	33	14.93%
Grayson	11,691	169	1.45%	20	11.83%
Green	5,641	46	0.82%	5	10.87%
Greenup	16,939	138	0.81%	33	23.91%
Hancock	4,085	78	1.91%	8	10.26%
Hardin	45,840	657	1.43%	54	8.22%

A Comparison by County Labor Force, Lost Time First Reports of Injury (FROI) and Litigated Claims

County	Total Labor Force	FROIs	% of FROIs to Labor Force	Claims	% of Claims to FROIs
Harlan	10,161	315	3.10%	154	48.89%
Harrison	9,054	85	0.94%	8	9.41%
Hart	7,861	96	1.22%	10	10.42%
Henderson	22,880	478	2.09%	42	8.79%
Henry	7,766	89	1.15%	13	14.61%
Hickman	2,047	24	1.17%	3	12.50%
Hopkins	22,387	390	1.74%	48	12.31%
Jackson	4,743	57	1.20%	11	19.30%
Jefferson	352,613	7,707	2.19%	984	12.77%
Jessamine	21,046	345	1.64%	47	13.62%
Johnson	9,851	200	2.03%	70	35.00%
Kenton	83,174	1,059	1.27%	100	9.44%
Knott	6,513	167	2.56%	86	51.50%
Knox	11,679	138	1.18%	26	18.84%
Larue	6,766	48	0.71%	6	12.50%
Laurel	26,083	419	1.61%	120	28.64%
Lawrence	5,728	112	1.96%	58	51.79%
Lee	2,626	60	2.28%	10	16.67%
Leslie	3,586	74	2.06%	23	31.08%
Letcher	8,870	232	2.62%	87	37.50%
Lewis	5,701	37	0.65%	2	5.41%
Lincoln	10,609	94	0.89%	11	11.70%
Livingston	4,781	44	0.92%	6	13.64%
Logan	12,395	141	1.14%	11	7.80%
Lyon	3,087	44	1.43%	5	11.36%
Madison	39,875	647	1.62%	85	13.14%
Magoffin	4,437	64	1.44%	19	29.69%
Marion	9,158	205	2.24%	19	9.27%
Marshall	13,991	133	0.95%	33	24.81%
Martin	3,677	181	4.92%	150	82.87%
Mason	8,921	146	1.64%	24	16.44%
McCracken	30,908	524	1.70%	89	16.98%
McCreary	6,069	83	1.37%	16	19.28%
McLean	4,630	40	0.86%	6	15.00%
Meade	11,824	71	0.60%	10	14.08%
Menifee	2,587	25	0.97%	5	20.00%
Mercer	10,150	144	1.42%	18	12.50%
Metcalf	4,595	64	1.39%	1	1.56%
Monroe	5,178	79	1.53%	7	8.86%
Montgomery	11,693	226	1.93%	25	11.06%
Morgan	5,157	46	0.89%	14	30.43%
Muhlenberg	13,058	219	1.68%	47	21.46%
Nelson	19,814	292	1.47%	47	16.10%
Nicholas	3,151	49	1.56%	2	4.08%
Ohio	11,118	138	1.24%	21	15.22%
Oldham	24,782	203	0.82%	22	10.84%
Owen	5,121	37	0.72%	9	24.32%
Owsley	1,585	25	1.58%	4	16.00%
Pendleton	7,454	56	0.75%	11	19.64%

A Comparison by County Labor Force, Lost Time First Reports of Injury (FROI) and Litigated Claims

County	Total Labor Force	FROIs	% of FROIs to Labor Force	Claims	% of Claims to FROIs
Perry	10,846	425	3.92%	168	39.53%
Pike	23,698	852	3.60%	447	52.46%
Powell	5,556	64	1.15%	11	17.19%
Pulaski	26,696	627	2.35%	94	14.99%
Robertson	1,085	3	0.28%	0	0.00%
Rockcastle	7,275	71	0.98%	13	18.31%
Rowan	12,354	160	1.30%	20	12.50%
Russell	7,797	122	1.56%	13	10.66%
Scott	19,376	799	4.12%	94	11.76%
Shelby	18,906	349	1.85%	49	14.04%
Simpson	8,779	172	1.96%	13	7.56%
Spencer	7,488	47	0.63%	7	14.89%
Taylor	11,968	175	1.46%	28	16.00%
Todd	5,819	31	0.53%	4	12.90%
Trigg	6,284	73	1.16%	12	16.44%
Trimble	4,227	32	0.76%	2	6.25%
Union	7,395	124	1.68%	66	53.23%
Warren	53,278	888	1.67%	97	10.92%
Washington	5,290	91	1.72%	5	5.49%
Wayne	9,060	102	1.13%	17	16.67%
Webster	6,603	117	1.77%	15	12.82%
Whitley	14,834	471	3.18%	90	19.11%
Wolfe	2,375	47	1.98%	12	25.53%
Woodford	13,073	293	2.24%	30	10.24%
Out of State		1,229		175	14.24%
Unknown		204		20	9.80%
Grand Total	1,977,946	36,986	1.87%	6,064	16.40%

*Workforce Data provided by the Department of Workforce Investment.

**Agriculture is included in the total labor force numbers.

***Unknown numbers are due to insufficient reporting information.

Work-Related Fatalities

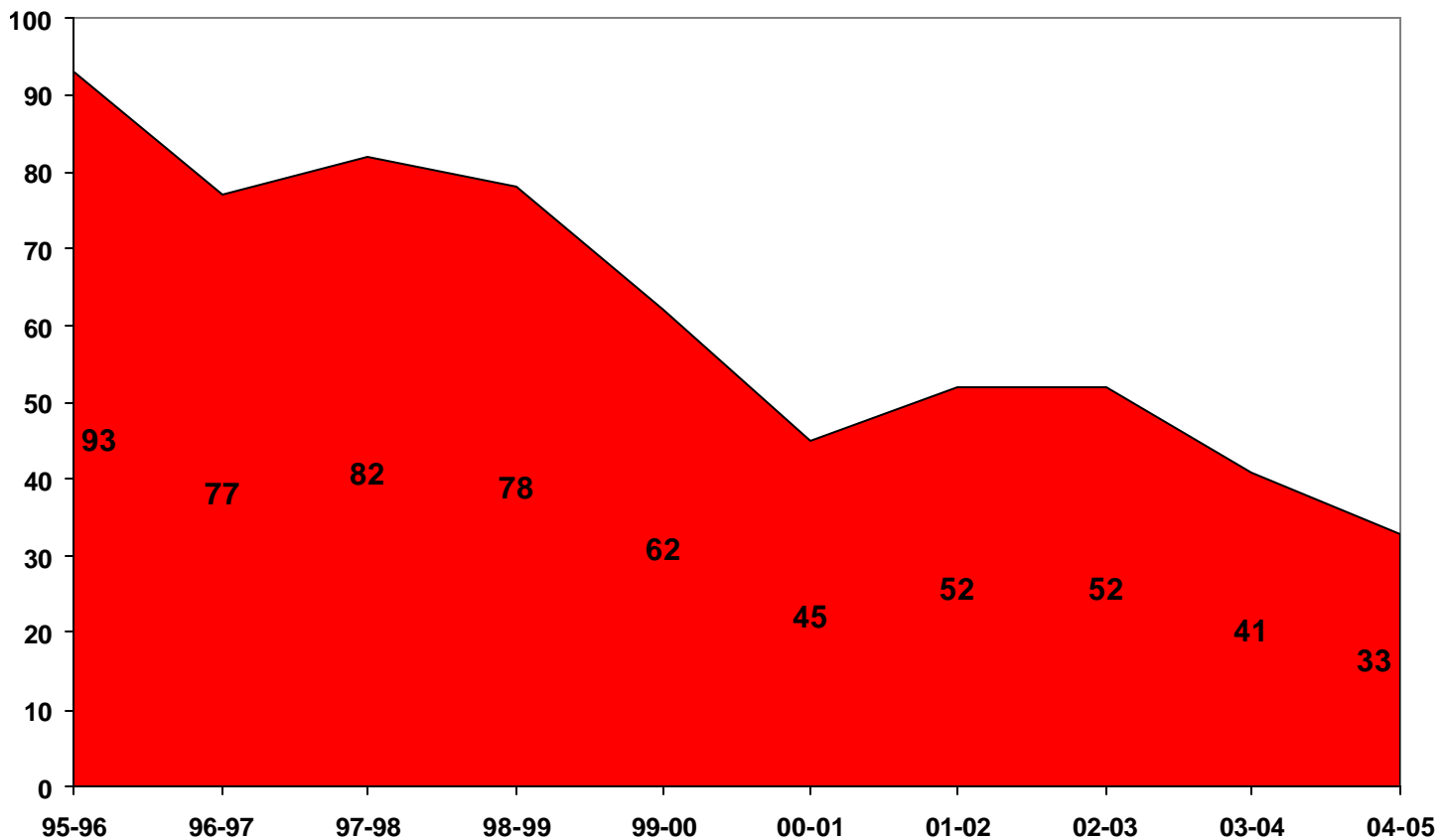
There were 103 reports of workplace fatalities reported to the Office of Workers' Claims during this fiscal year. However, after investigation, only 33 of the deaths were determined to be work-related (lowest in over 10 years). Those remaining have been ruled not work-related, not a Kentucky claim, death falling outside the reporting period, or contain issues which have the case in a pending status. Increased safety education programs as well as collaborative investigative efforts between OSHA and the OWC Specialists has contributed to this significant reduction in work-related deaths.

The youngest of the casualties was a 19 year old male. He died as a result of a motor vehicle injury. The oldest fatality during this time period was a 69 year old male who was shot during a robbery of a grocery store.

The most common causes of death were motor vehicles accidents (13) and workers killed by persons in the act of a crime (4). Three workers died from falling objects and three fatalities were from electric current.

Occupations of these workers ranged from construction laborers to electricians, firefighters to miners, policeman/detectives, and truck drivers. The Construction industry had the most fatalities reporting seven (7) deaths. This was followed by Public Administrative (5), Retail Trade (4), Manufacturing (4), Mining (4), Services (3), Transportation and Public Utilities (3) and Wholesale Trade (3).

Work-Related Fatalities by Fiscal Year



Fiscal Performance



The entirety of the funding for the Office of Workers' Claims comes from a special fund assessment imposed upon the amount of workers' compensation premiums received by every insurance carrier writing workers' compensation insurance in the Commonwealth, and against the simulated premium of every employer carrying its own risk. This is collected by the Workers' Compensation Funding Commission (KRS 342.122). These funds are restricted and no general fund dollars are appropriated for OWC operation.

The Office's budget for fiscal year 2004-2005 was \$13,833,300. As of June 30, 2005, OWC had expended \$12,920,992.00 or 93.4% of the enacted budget.

OWC PERSONNEL AD BUDGET HISTORY

FY 1990-91 through FY 2004-05

FISCAL YEAR	PERSONNEL CAP	PERSONNEL ACTUAL	BUDGET ALLOTMENT (\$)	ACTUAL EXPENDITURES (\$)	DIFFERENCE (\$)	PERCENT OF BUDGET EXPENDED
2004-2005	173	163	9,498,700	9,182,865	(315,834)	96.7%
2003-2004	195	188	13,649,200	10,735,937	(2,913,263)	78.7%
2002-2003	242	201	16,397,700	13,384,935	(3,012,765)	81.6%
2001-2002	242	204	15,806,800	13,373,836	(2,432,963)	84.6%
2000-2001	242	208	14,942,300	12,716,927	(2,258,373)	85.1%
1999-2000	268	207	15,637,000	12,387,288	(3,249,712)	79.2%
1998-1999	268	208	14,994,000	12,606,188	(2,387,812)	84.1%
1997-1998	272	227	15,182,500	12,588,527	(2,593,973)	82.9%
1996-1997	272	229	12,137,900	11,057,391	(1,080,509)	91.0%
1995-1996	207	138	9,822,200	9,479,970	(342,230)	96.5%
1994-1995	210	120	9,757,200	8,586,716	(1,170,484)	88.0%
1993-1994	167	159	7,860,000	7,337,688	(522,312)	93.4%
1992-1993	167	160	7,505,100	7,004,561	(500,539)	93.0%
1991-1992	153	150	6,901,600	6,497,815	(403,785)	94.0%
1990-1991	155	149	6,737,300	6,487,540	(249,760)	96.0%

This does not include employees with the Workers' Compensation Board, which is attached to the Office of the Secretary; General Counsel, which is attached to the Office of Legal Services; or Technical Support, which is attached to the Department of Labor, Administrative Services.

Office of Administrative Services



The Office of Administrative Services is detached from the Office of Workers' Claims due to the Governor's reorganization. However, their responsibilities included ensuring all financial transactions and personnel actions comply with applicable laws and regulations, are executed in a timely manner, are properly documented, and allocated to the appropriate Program Budget Unit. Some of the functions that Administrative Services perform include: managing and executing the annual budget and all contracts & leases; responding to all requests for publications and forms; processing all incoming and outgoing mail; procuring supplies and equipment; maintaining infrastructure for 15 agency locations; coordinating OWC training; and providing daily assistance to all Divisions of the Office of Workers' Claims. The Office's Technical Support Branch is responsible for purchasing and installing all hardware and software and designing and developing all data systems inclusive of maintaining and enhancing databases and applications. In

addition, their duties include responding to end user and stakeholder inquiries, maintaining the Office's complex network and ensuring system backups. This Branch also processes all Electronic Data Interchange transactions, schedules computer related training for all agency employees and provides daily support to all Divisions of the Office.

The following publications are made available by the OWC:

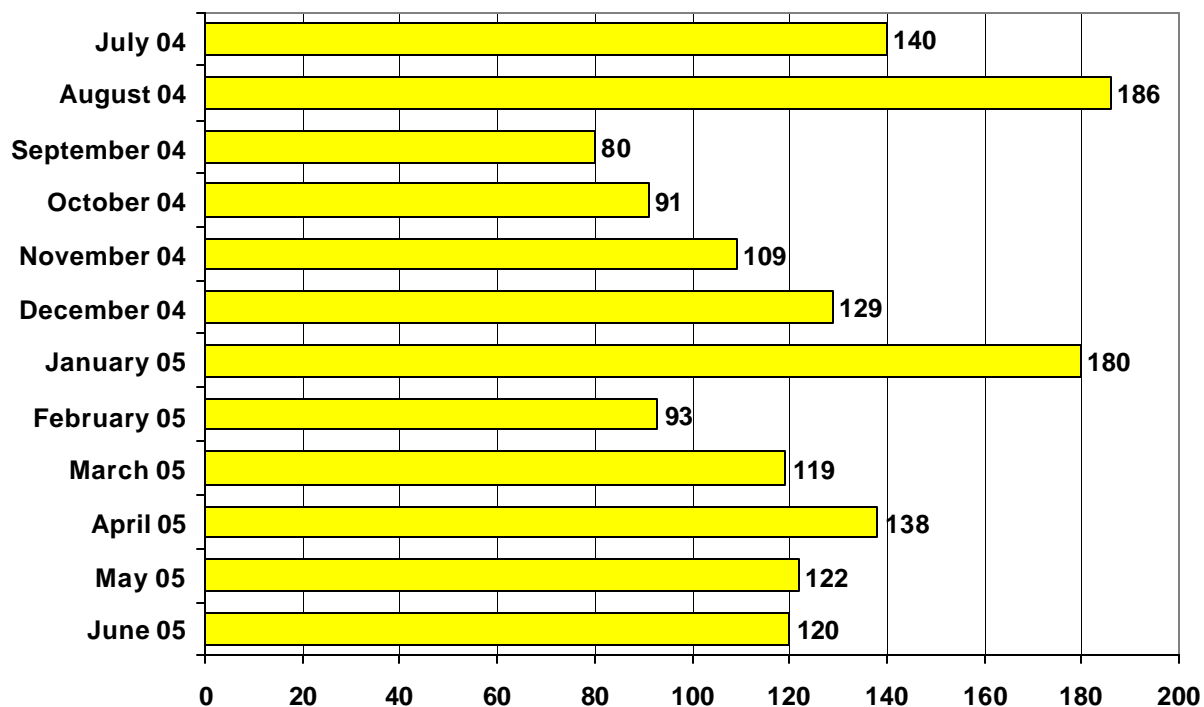
- Medical Fee Schedule for Physicians
- Executive Director's Report on "B" Readers
- Hospital Fee Schedule
- Annual Report
- Benefits Schedule
- Quarterly Report
- Compliance Inspection Pamphlet
- Present Worth Table
- Workers' Compensation Guidebook
- Workers' Compensation Rates
- Workers' Compensation Forms
- Annual Review of Self-Insurance
- Workers' Compensation Posting Notice
- Life Expectancy Tables
- Rehabilitation Pamphlet
- Certificate of Self-Insurance
- Posting Notice of Education & Training
- List of "B" Readers for CWP
- Acute Low Back Pain Booklet

Technical Support & Design and Development

The Technical Support & Design and Development Section responds to all technical, networking and programming needs for the Office of Workers' Claims as well as the 10 field offices. During this fiscal year, Technical Support staff performed many routine tasks ranging from updating Microsoft Security patches and installing VPN software to daily working with the FileNet vendor on FileNet Capture 4.1 scanning issues. Section staff completed 1,507 help desk requests for assistance. In addition to the duties often associated with Technical Support, staff researched the following issues: terminal servers; sus server; voip; bay switches; nortel order; scanner issues; business card reader/scanner; creating boot disks for new NIC cards; outlook issues; and, interpreters for tagalong language. Technical Support staff does research on specific items as listed in order to stay current on new technology, for ordering new equipment, and as a service provided when someone needs new software, hardware, or specific needs. Technical Support staff moved one field office which included all the network and computer equipment contained within its facility. Section staff attended various meetings with Commonwealth's Office of Technology (COT), IBM representatives, as well as the Department of Labor.

Design and Development staff worked to enhance the Agency's Server-Based System for Information Management and Business Applications (SSIMBA) system to streamline the workflow and meet the evolving needs of the Agency. Monthly user meetings were held with the result being that Design and Development staff were able to identify features that increased productivity and data reliability and add them to the system. Staff worked to develop and enhance the Electronic Data Interchange (EDI) applications, which is the primary portal into SSIMBA from outside entities.

Distribution of Help Desk Requests



Office of General Counsel

As with the Office of Administrative Services, the agency's Office of General Counsel was consolidated with the newly created Environmental and Public Protection Cabinet (EPPC) as a result of Governor Fletcher's executive order for reorganization. However, the responsibilities of the Office of Workers' Claims, Office of General Counsel, during this reporting period was to provide legal support services to OWC in numerous legal capacities. The office advises the Executive Director's office as to responsibilities with regard to personnel actions under KRS Chapter 18A, and defends the Agency against any actions, personnel or otherwise, that are filed against the Office. Additionally, the General Counsel's Office has responsibility for promulgating regulations required of the Office and drafting and reviewing legislation. The Office provides assistance to the Enforcement Branch in ensuring compliance with Workers' Compensation laws for imposition of injunctions and fines against employers who neglect or refuse to provide Workers' Compensation coverage for their employees. In circumstances where an employee is injured and their employer has failed to provide insurance coverage, liens are filed against assets of uninsured employers pursuant to KRS 342.770. The Office is responsible for reviewing open records requests in compliance with the state's open records law. The Office works closely with the Division of Workers' Compensation Specialists and Ombudsman in investigating unfair claims practices, and is responsible for issuing citations and representing the Office at hearings when it has been determined that an unfair claims practice has occurred.

During this past fiscal year, the General Counsel's Office has collected \$481,579.83 in fines and penalties. The office received 838 citation cases, 19 unfair claims settlement practice cases, and 20 new fraud cases. This Office has filed restraining orders and collection actions in circuit court, held formal hearings and show cause hearings before administrative law judges, and drafted agreed orders for settlements with regard to the above cases. The Office of General Counsel has also represented the agency, more specifically the Coverage and Compliance Division, with regard to self-insurance legal issues and/or bankruptcy proceedings. The current economy has forced more companies into bankruptcy and/or reorganization.

Administrative Law Judges

The Office of Workers' Claims has 19 Administrative Law Judge (ALJ) positions allocated, 16 of which are currently filled. Each Administrative Law Judge (ALJ) is appointed by the Governor for a four year term from a list of three names submitted by the Workers' Compensation Nominating Commission. Each ALJ is subject to confirmation by the Kentucky State Senate. One of the ALJs is designated Chief Administrative Law Judge pursuant to KRS 342.230(8).

Honorable Sheila C. Lowther, Chief Administrative Law Judge, is assigned to the Frankfort, Kentucky office. Judge Lowther was reappointed as of 1/1/04. The Chief Administrative Law Judge (CALJ) presides over a motion docket on Tuesday and Thursday, a settlement docket twice each week, and a CWP docket one day each week. The CALJ prepares a rotation schedule for the ALJs, plans two adjudicator training sessions annually, conducts enforcement hearings, takes initial assignment of all CWP claims, covers dockets for other ALJs on an emergency basis, and coordinates all ALJ activity.

The other 15 ALJs oversaw the adjudication of claims filed with the Office of Workers' Claims. The ALJs are required to conduct benefit review conferences and formal hearings in these claims. Thereafter, they are required to issue decisions in the claims within 60 days after the date of the hearing. These decisions must contain findings of fact and rulings of law, and are subject to appeal to the Workers' Compensation Board, Court of Appeals, and the Supreme Court.

Benefit review conferences and hearings are held at the 12 hearing sites in Kentucky maintained by the Office of Workers' Claims. These hearing sites are located in Ashland, Bowling Green, Florence, Hazard, Lexington, London, Louisville, Madisonville, Owensboro, Paducah, Pikeville and Pineville.

During the past fiscal year, the ALJs presided at 5,835 benefit review conferences. A substantial number of those cases were settled. Formal hearings were held in the remainder. The ALJs presided at 2,543 formal hearings. They issued 1,777 opinions, and issued an additional 88 opinions in cases which were remanded on appeal. The ALJs also participated in two training sessions, and attended and/or spoke at numerous seminars about the Kentucky Workers' Compensation Program.

Attorney Fees Awarded During FY 2004-05

	Number of Fees Approved	Total Fees Awarded	Average Fee
Plaintiff	5,513	\$23,197,187.94	\$4,207.73
Defense	4,011	\$14,173,695.28	\$3,533.71

Summary of FY 04-05 Significant Workers' Compensation Cases

Hunter Excavating v. Bartrum

168 S.W.3d 381:

Subject: X-ray evidence of coal workers' pneumoconiosis

The Supreme Court held that: (1) statute setting forth two-step "consensus" procedure for evaluating x-ray evidence of coal workers' pneumoconiosis did not deny parties a meaningful opportunity to rebut a consensus x-ray classification and, thus, did not violate due process, but (2) regulations, which prohibited parties from submitting additional reports of the x-rays that were evaluated by consensus panel and prohibited an ALJ from considering those reports, conflicted with statute and, thus, were invalid.

Adkins v. Pike County Bd. of Educ.

141 S.W.3d 387:

Subject: Times 3 multiplier

The Court of Appeals held that in determining which multiplier to apply to benefits, appropriate determination was whether claimant was likely to be able to continue earning wage that equaled or exceeded wage at time of his injuries for indefinite future, not whether claimant could continue to perform current job for indefinite future.

Miller v. Stearns Technical Textiles Co.

145 S.W.3d 414:

Subject: Statute of Limitations- KRS 342.040(1) letter

The Court of Appeals held that a workers' compensation claim which was filed within two years of the letter generated by the Office of Workers' Claims (OWC), but more than two years after the time of claimant's injury and termination of temporary total disability benefits (TTD) was untimely since there was nothing to indicate that tardiness of OWC's letter so adversely affected claimant's rights so as to make it impossible for her to act in accordance with the two-year statute of limitations.

Kendrick v. Toyota

145 S.W.3d 422:

Subject: Statute of Limitations- Reopening

The Court of Appeals held that:
(1) four-year statute of limitations applied to motion to reopen, and
(2) employer's post-award voluntary payment of temporary total disability benefits was not an action of waiver or estoppel so as to prevent employer from asserting four-year period of limitations on reopening claim.

Wal-Mart v. Southers

152 S.W.3d 242:

Subject: Average Weekly Wage- Concurrent Employment

The Court of Appeals held that evidence supported ALJ's finding that claimant was concurrently employed even though the employee's employment with a tax preparation service was intermittent, she was under a contract for hire, was still on call, and was compensated throughout the year.

Melo v. Barnett

157 S.W.3d 596:

Subject: Medical

On discretionary review, the Supreme Court held that claimant consented to disclosure of his HIV status as condition of receiving benefits.

Hawkeye Const. Co. v. Little ex rel. Little

151 S.W.3d 360

Subject: Safety Violation Enhancement

The Court of Appeals held that substantial evidence supported ALJ's finding that employer intentionally violated known safety regulations so as to justify imposition of 30% penalty pursuant to KRS 342.165. There was sufficient evidence that the employer had intentionally ignored safety regulations.

Dravo Lime Co., Inc. v. Eakins

156 S.W.3d 283

Subject: Causation

The Supreme Court held that:

(1) substantial evidence supported finding that exposure to calcium oxide caused pulmonary fibrosis and impairment, and

(2) employer was not permitted to credit short-term disability benefits claimant received against its liability for his workers' compensation award.

Brummitt v. Southeastern Kentucky Rehabilitation Industries

156 S.W.3d 276

Subject: Gradual Injury

The Supreme Court held that the April manifestation date of workers' compensation claimant's wrist injuries did not necessarily make the carrier listed as being on risk at that time responsible for the employer's entire liability.

AK Steel Corp. v. Johnston

153 S.W.3d 837

Subject: Hearing Loss

The Supreme Court held that statistical evidence estimating age- related hearing loss does not rebut the statutory presumption that a binaural hearing impairment which converts to eight percent or more under the American Medical Association Guides to the Evaluation of Permanent Impairment is entirely work-related.

McClanahan v. Mountain Edge Min. Co.

158 S.W.3d 191

Subject: Pneumoconiosis

The Supreme Court held that the workers' compensation statute setting forth a "consensus" procedure regarding evidence in coal workers' pneumoconiosis claims does not require chest x-ray interpreters to find opacities in the same lung zones, in order for the interpreters to form a consensus.

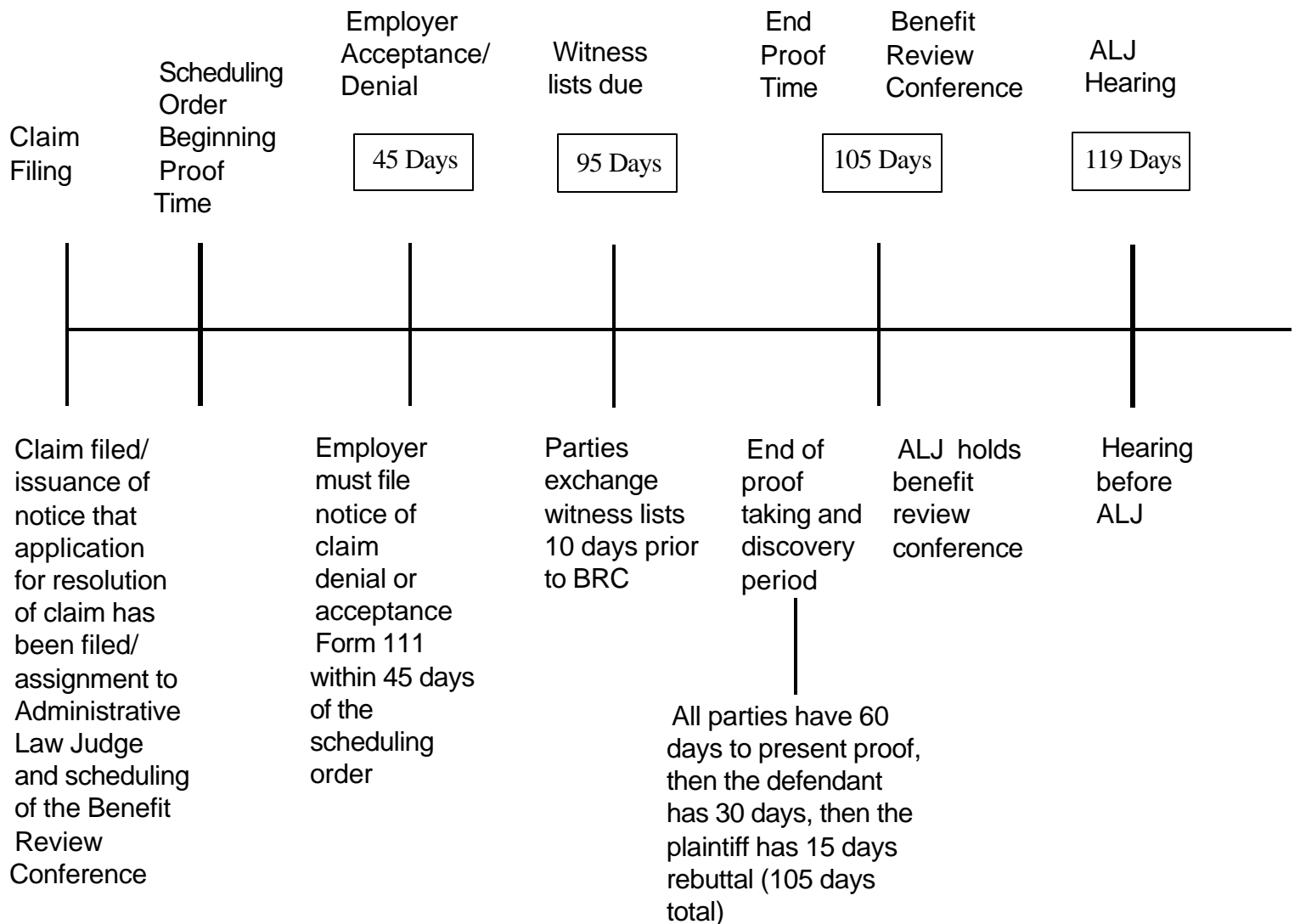
Warrior Coal Co., LLC v. Stroud

151 S.W.3d 29:

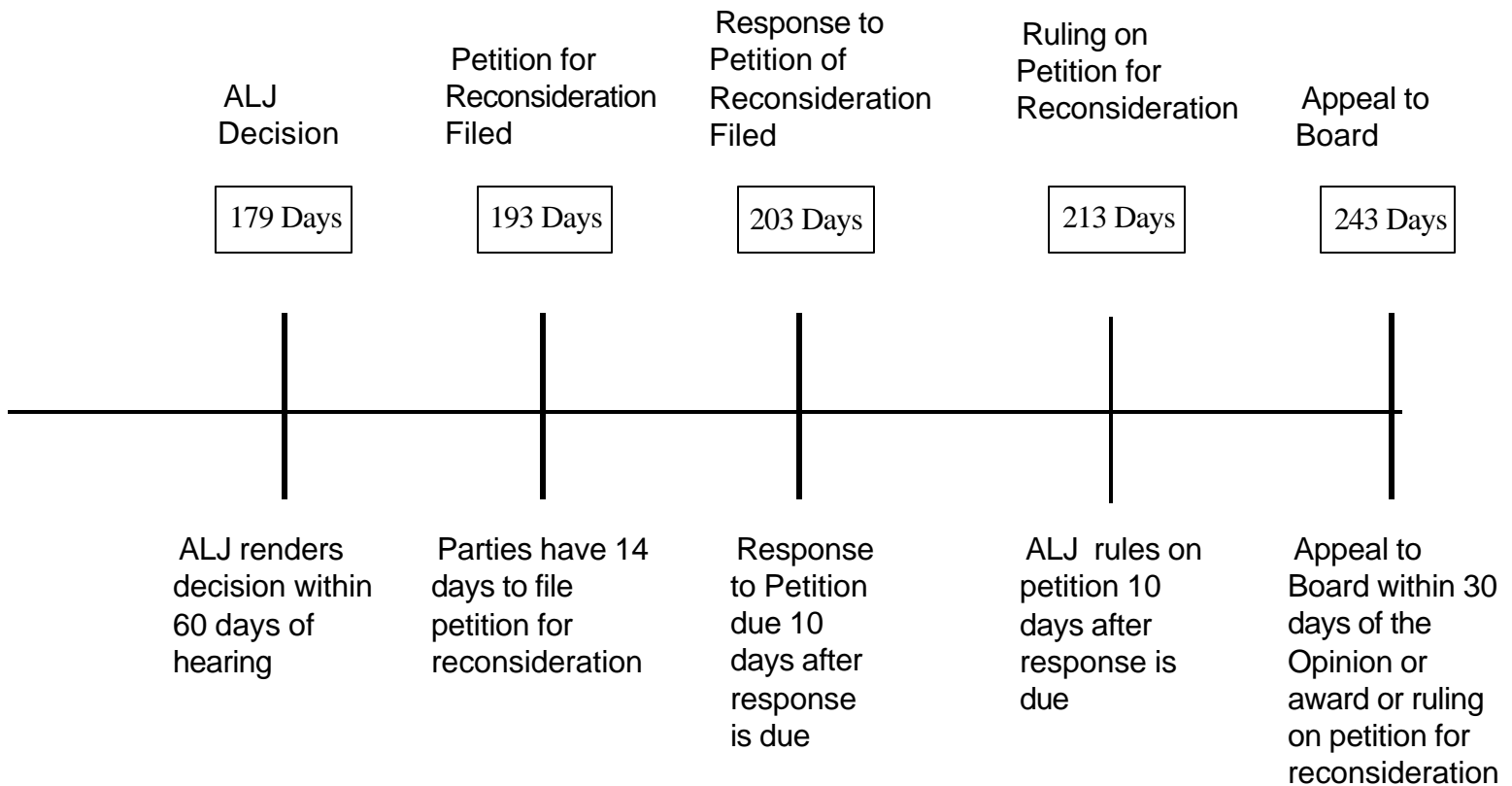
Subject: Work-related

The Supreme Court held that claimant's injury was compensable under operating premises exception to "going and coming rule." The worker fell asleep at the wheel of his personal vehicle and crashed while on the employers property in the process of going to work.

Kentucky Workers' Adjudication



Compensation Timeline



Claims Processing & Appeals



The Division of Claims Processing and Appeals is comprised of two (2) Branches bearing those same names. **The Claims Processing Branch** is charged with the timely processing and assignment of applications for resolution. Whether it is from an injury, an occupational disease including pneumoconiosis, a hearing loss, a medical fee dispute, an order for an attorney fee or an official agreement of any type, all those applications pass through this Branch. Furthermore, the scheduling for the Benefit Review Conferences with each of the Administrative Law Judges, the scheduling of the Court Reporters, the maintenance of the Frankfort Motion Docket for the Chief Administrative Law Judge, and the auditing/purging of the resolved files are also completed within the Division of Claims Processing.

The Claims Processing Branch consists of the Agreement Section, the Case Files Section, the Claims Assignment Section, and the Docket Section.

The Agreement Section receives and processes settlement agreements, attorney fees, and motions to substitute party for widows' benefits. In addition, motions and agreements are prepared for submission to the Frankfort Motion Docket for ruling by the Chief Administrative Law Judge. The Agreement Section processed 4,816 agreements representing settlements related to first reports; 736 agreements from reopenings (medicals and lump sums); 1,064 motions for attorney fees; and 193 motions to substitute party/widow's benefits.

The Case Files Section receives and processes unassigned motions to reopen, motions for attorney fees, and miscellaneous motions, preparing these pleadings for assignment to the Docket Section. This section houses and maintains the file tracking system, serves as the custodian for all exhibits and x-rays filed during the litigation of the claim, and also audits/purges the files after a final decision has been rendered. The Case Files Section received 2,845 new motions, checked in and audited 5,627 files, and purged 5,940 files.

The Claims Assignment Section receives and processes all applications for resolution of injury, occupational disease, coal workers' pneumoconiosis, and hearing loss claims. In addition, they assign these claims to the Administrative Law Judges, schedule the benefit review conferences, and prepare the calendar for the court reporter assignments. The Claims Assignment Staff processed 4,782 new claims, of which 164 were coal workers' pneumoconiosis (CWP) claims. Section staff assigned 4,538 files and 1,013 cases from the motion docket (reopenings) to the Administrative Law Judges for the Benefit Review Conferences.

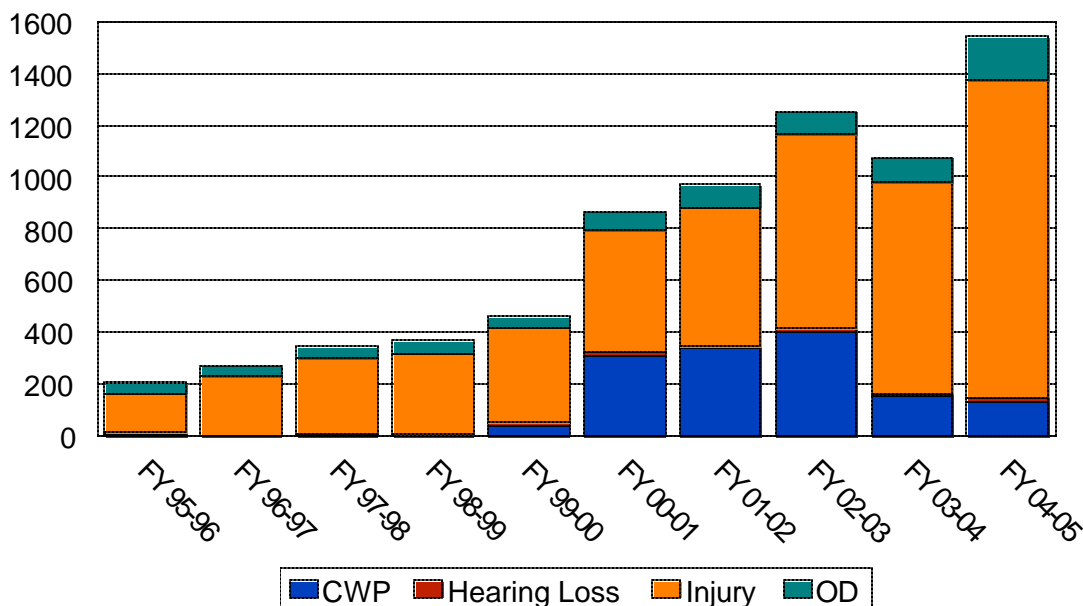
The Docket Section prepares motions in cases which have not been assigned to a law judge and places them on the Frankfort Motion Docket for ruling by the Chief Administrative Law Judge. The staff attended each of the 51 dockets that were held during this fiscal year to provide assistance and to record the 3,079 motions that were ruled upon by the Chief ALJ.

During FY 04-05 the number of medical fee disputes filed reached a record high of 1,539. As a result of the escalating amount of fee disputes, the Office of Workers' Claims is making plans to implement a mandatory mediation program in the next fiscal year which will affect all post award medical fee disputes. This mediation process is intended to assist parties in resolving workers' compensation medical fee disputes quickly and simply. Each dispute will be mediated by an Administrative Law Judge who will facilitate the process of identifying possible



solutions, and who will allow time for both parties to explain the relevant facts which comprise the dispute. The parties, not the mediator, will then be afforded the opportunity to determine the solution. If the parties cannot reach an agreement, then the case will be scheduled for a hearing before a different ALJ, who will make a ruling on the case.

Medical Fee Disputes Filed by Fiscal Year



The Appeals Branch, an integral part of the Claims Processing and Appeals Division, readies the appeals from the Administrative Law Judge decision to the Workers' Compensation Board (WCB), the Court of Appeals and the Supreme Court. Statutes and regulations require the timely filing of motions, briefs, and petitions with regard to appeals as well as the aforementioned claims. The personnel in this branch monitor and track all filings with their own database and hard copy files. They compile, index, and transfer workers' claims files to the WCB and the Court of Appeals, concluding with the filing and entering of all subsequent orders and opinions rendered by the Board and appellate courts.

The Appeals Branch processed 481 appeals to the Workers' Compensation Board during this reporting period. The Board ordered final disposition on 53 claims. A total of 400 board opinions were rendered with the Honorable Jonathan Stanley rendering 139 opinions; the Honorable John A. Gardner, 129 opinions; and the Honorable Kent T. Young, 132 opinions. No full board opinions were rendered. Including the 53 final disposition orders, a total of 453 cases were processed by the Workers' Compensation Board.

During this fiscal year, 136 petitions for review were filed with the Court of Appeals; 131 records were prepared, indexed and transferred to the Court of Appeals by the staff, with the court rendering 181 opinions. Final orders came down on eight claims. Additionally, there were 48 claims appealed to the Supreme Court with the Court rendering 71 opinions and eight final orders.

Information and Research



The primary duties of the Division of Information and Research are collection, storage and retrieval of data and the dissemination of information. The **Records Branch** is primarily responsible for data entry, coding, responding to requests for claim and first report information, and ensuring the validity and integrity of the data. The duties of the **Imaging Branch** consist of imaging and verifying all hard copy documents as well as indexing them into the OWC's integrated optical system.

Records Branch

The Records Branch is a fundamental part of the Office of Workers' Claims (OWC) and is divided into four sections: Data Entry, Electronic Data Interchange (EDI), Open Records, and the Research Section. These sections combine to ensure reliability, accuracy, and integrity within the data that is submitted to the OWC.

The Data Entry Section receives and processes incoming mail, sorting and counting by document type. This section receives 90% of the documents filed with the OWC. This includes interpretation of orders prepared by the Administrative Law Judges (ALJs) and pleadings filed by the attorneys. Section staff are charged with the responsibility of updating the database with approximately 350 active status codes, 53 dispositions and more than 100 variables. All these combine to give more details regarding the status of a claim. These



codes are used by specialists to ensure quality assistance to claimants, attorneys, employers, and carriers. During this reporting period, the data entry section received 110,797 pieces of

mail, 32,730 orders from the ALJs, 1,777 awards and opinions, as well as 2,437 docket orders. Each document receives personal attention to ensure that the data coming into the Office is legitimate.

The Electronic Data Interchange (EDI) system is used by carriers and self-insured employers to report data electronically. This system has been used by Kentucky since 1996. The information transferred via EDI is monitored and coded by **the EDI Section**. There are over 10,000 codes available for committing specific information about each injury. This information is used for tracking purposes and as system triggers for issuing statute of limitations letters based on the date of injury or last receipt of temporary total disability benefits. Section staff manually enter first report information from the application in the event a claim is filed on an injury or occupational exposure that isn't initially reported. This

ensures that the agency's records are complete and there is no interruption in workflow. Information compiled by this section is utilized through the office as the claim progresses throughout the adjudication process. During this fiscal year, the EDI section received 41,184 first reports through the EDI system, manually added 2,114 injury reports, and completed 952 change forms.

The Open Records Section responds to requests for claim and first report information pursuant to KRS 61.872(2). Requests are received from a variety of outside parties including attorneys, insurance carriers, employers, the Social Security Administration, as well as the general public. During the 2004-2005 fiscal year, 16,251 written requests were received, as well as 226 requests from the Social Security Administration. In addition to producing hard copy records, oral testimony and certifications are also provided by this section

upon request. Available to prospective employers through the Open Records section, is a service of pre-employment screening. Pre-employment requests are only granted after the Office of Workers' Claims has received a written request, accompanied by a signed employee authorization form. Pre-employment inquiries totalled 18,409 coming in as the most frequently requested material.

Pursuant to KRS 150.170, the Open Records Section also verifies workers' compensation awards for the Department of Fish and Wildlife for individuals applying for free Hunting and Fishing licenses. This reporting period, there were 109 applications processed.

The Research Section of the Records Branch conducts intricately specialized injury and industry research by collecting, reviewing, and comparing data that is relevant to workers' compensation issues and the Kentucky Office of Workers' Claims. Complex SQL queries are written to extract the data from the agency's SSIMBA (Server Based System for Information Management and Business Applications) system. Section staff are familiar with the 89 tables that are housed in the SSIMBA database as well as the codes, current as well as historical, that are used by the Data Entry and EDI Sections to identify each specific document type and maintenance type transaction code. Reports are formatted to answer in depth open records requests and to monitor agency, carrier, and employer performance. This data is highly beneficial when it comes to exploring areas of legislative interest.

Statistical Reports and analysis by the research staff are gathered/processed from accessing the First Reports of Injury, the Subsequent Reports of Injury and various other OWC databases. A few examples of research, analysis, and compilation of duties of the section staff include the OWC's Annual Report, the Quarterly Activity Reports, and the Workers'

Compensation Guidebook.

Research and data extraction is often requested by the public as well as Governmental entities, health care representatives, attorneys, the media, and legislators. The results attained by the research



staff are used in a variety of ways: to assist in claim filing, to prepare for safety training programs, and to update state and national data banks. Additionally, information sharing agreements are held with a variety of other state agencies: Medicaid, Revenue, Retirement, and the Office of Insurance.

The Research Section compiles, designs, and edits a variety of office publications, in addition to monitoring the agency's statistical progression. The Quarterly and Annual Reports to the Governor, Workers' Compensation Guidebook, Legislative Change Brochures, and Retraining Incentive Benefits Posters are essential in aiding constituents and the public to understand the complex system of workers' compensation. These publications are produced for print as well as web publishing.

In addition, staff maintains, manages and enhances the Office of Workers' Claims Web site. The Research Section also aids Administrative Services' Design and Development Section, as well as Data Entry and the EDI Section in maintaining data integrity. Section staff often identify inconsistencies within the data that are not apparent to average users. This results in the development of stronger edits, data clean-up queries being generated and disseminated to resolve such situations.

The Imaging Branch

The Imaging Branch is responsible for scanning and verifying all hard-copy documents and indexing them into the agency's imaging system. This fiscal year, this branch scanned 228,103 documents equaling 1,682,719 pages. In addition, section staff processed all in house microfilm requests and updated the microfilm database with regard to consolidations and reopenings. Other responsibilities of this branch include document retention and destruction. All documents are maintained in accordance with the Department for Library and Archives retention schedule.



In 1995 when the Office of Workers' Claims implemented its optical image system it was decided that initially only new claims would be scanned. However, over time as the benefits of the system were realized, the agency expanded the criteria for imaging documents. Now, ten years later the Office of Workers' Claims in cooperation with the Department of Labor is considering a joint microfilm/microfiche conversion project that if funded would allow for all records stored on microfilm/microfiche to be digitized. The benefits of having all records within the agency stored on optical platters are far reaching. Having one storage and retrieval system provides agency staff the ability to view any record maintained by the Office directly from their desktop. Costly maintenance agreements and equipment costs associated with microfilm readers/printers can be eliminated, and information sharing agreements can be automated thus reducing copying costs and postage charges. Due to a 75 year retention requirement, the OWC's Imaging Branch has approximately 16,000 rolls of microfilm which contain injury and occupational disease claims back to 1930. As a service to our stakeholders a cost benefit analysis will be pursued in the next fiscal year to determine the feasibility of digitizing those cases which are currently retained on microfilm and microfiche.

Security & Compliance



The focus of this Division is to ensure that non-exempt employers maintain workers' compensation coverage for their employees. This Division is comprised of three branches. The Self-Insurance Branch audits the individual self-insured employers' claim files, monitors their financial strength and determines the surety requirements necessary to secure benefits for the self-insured employers' workforce. The Coverage Branch maintains records to document proof of coverage for each insured Kentucky employer. The Enforcement Branch investigates the status of Kentucky employers' insurance coverage through on-site visits to encourage compliance with the Workers' Compensation Act, ensuring that workers within the Commonwealth are protected in the event of a workplace accident.

SELF-INSURANCE

Self-Insured Groups- As of July 2004, regulation of the Self-Insured Groups was moved under the Office of Insurance. In March 2005, all records were transferred to the Office of Insurance.

Individual Self-Insurers –At the end of this fiscal year, there were 167 individual self-insured companies, two of which were on the self-insurance watch list. It is anticipated that one of these two companies will be removed from the watch list leaving only one company. This will be the fewest number on the watch list since the list was established in 1998.

One former self-insured company declared bankruptcy during the year. The company continues to pay its workers' compensation liabilities; therefore, surety has not been notified and the company has not been reported to the Kentucky Individual Self Insurers Guaranty Fund.

A coal company that declared bankruptcy last fiscal year informed OWC they were going to default on their workers' compensation liabilities. Surety was contacted and transferred to the Kentucky Coal Employers Self-Insurance Guaranty Fund. There is additional surety available for this company in the form of surety bonds issued by Frontier Insurance Company that is in Rehabilitation in New York. The OWC is working to obtain this additional surety.

It was determined that the actuarial model previously utilized to establish surety requirements needed to be updated. The OWC issued a request for proposal and hired an actuary with extensive Kentucky workers' compensation experience. The actuary has nearly completed the finished product that will assist in establishing surety requirements for new applicants as well as current and former self-insured companies.

The OWC continues to review the reserving practices of the self-insured companies to assure adequate reserves are being reported. As of today, 31 such reviews have been conducted. The reviews have been utilized to assist in determining when a surety reduction requested by a former self-insured is or is not warranted.

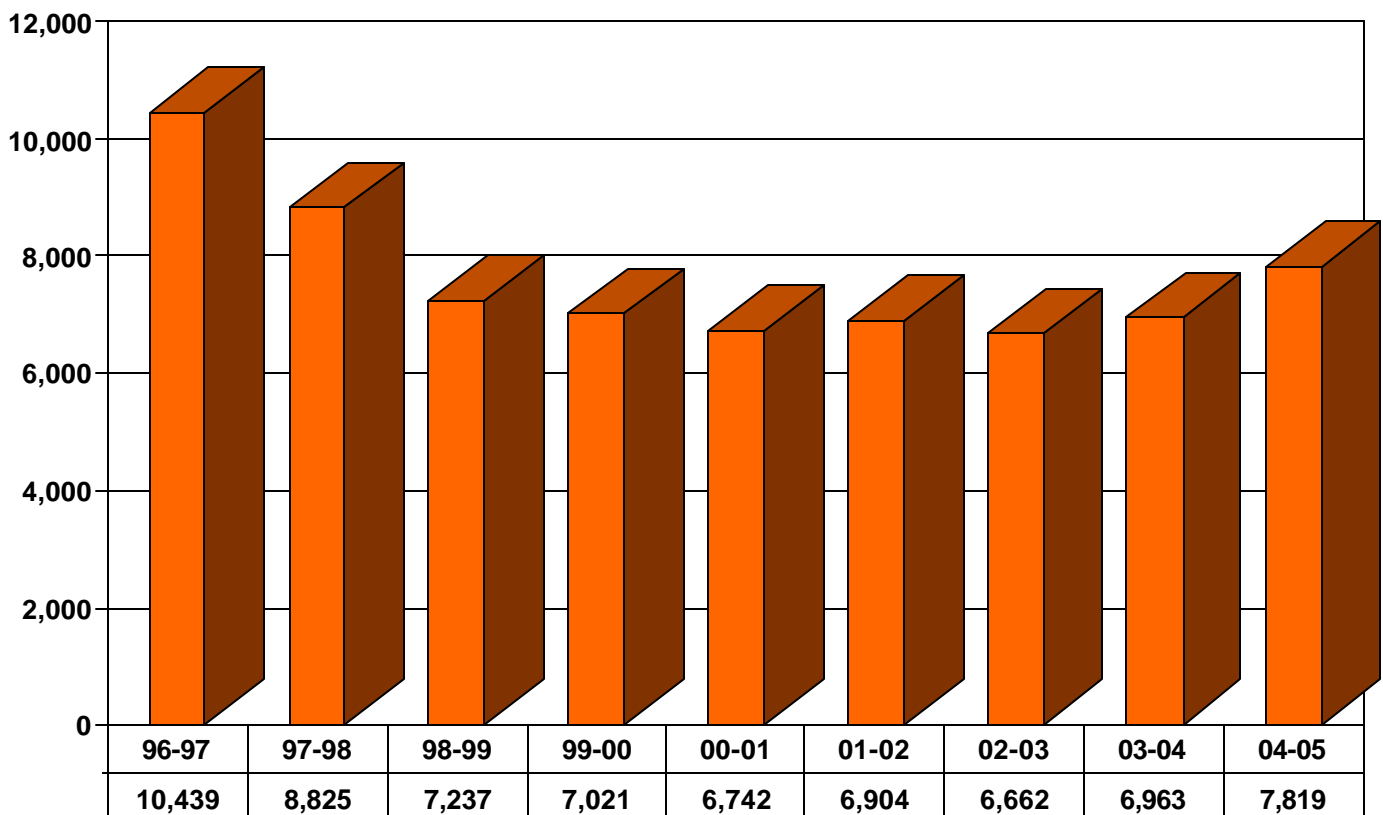
ENFORCEMENT

The Enforcement Branch plays an important role in the Office of Workers' Claims. The goal of the Branch is to ensure that employers subject to the Workers' Compensation Act comply with statutory requirements. The Branch also encourages timely compliance through educational initiatives. Compliance is primarily accomplished or confirmed by regular inspections of employers to verify compliance with the Act. The Branch has a staff of nine Enforcement Officers located in various field offices across the state. To ensure timely compliance with the Act, officers conduct on-site visits with employers. The Branch also investigates leads generated in-house, complaints, and UEFs (Uninsured Employer Fund) reported through various sources. The Branch uses mobile computers to electronically "capture" data. Completed investigations are electronically transmitted to the Frankfort office computer database.

Citations to non-compliant employers are prepared for the Executive Director's approval and delivered to the employer. The Branch logs and processes the citations through the legal tracking system. Penalties are collected, logged and entered into the legal tracking system by the Enforcement Branch. When necessary, testimony and evidence are presented in official proceedings.

The Branch is responsible for monitoring and maintaining a database on the filing of the Employee's Written Notice of Rejection of the Workers' Compensation Act (Form 4). Employees may waive their rights to protection under the Act by filing this notarized form with the Office of Workers' Claims. In Fiscal Year 2005, the Branch received and logged 7,819 Form 4s.

Employee's Written Notice of Rejection filed with the Office of Workers' Claims



The number of employees rejecting coverage declined significantly from fiscal year 1997 as illustrated by the graph above. However, it should be noted that 2005 is the second consecutive year the Branch has processed an increase in the number of employees rejecting protection of the Act.

COVERAGE

The Coverage Branch receives documented proof of workers' compensation coverage from each carrier and self-insured group fund for employees covered by the workers' compensation act. An estimated 213 insurance companies—including the competitive state fund Kentucky Employers Mutual Insurance Company (KEMI)—insured the Commonwealth's employers during this fiscal year. Carriers and insurers submit required information using Electronic Data Interchange (EDI) through one of the state approved data collection agents. Currently, there are four approved POC data provers authorized to transmit proof of coverage data in Kentucky: WorkComp Link, Claimport (ISO), KEMI, and NCCI. Absent since 2000, during fiscal year 2004-2005, the Office of Workers' Claims successfully completed the POC testing process with NCCI and once again welcomes them as a POC trading partner.

Electronic coverage data is stored in a master database maintained by the Coverage Branch. The Coverage Branch processed 198,127 transactions during this fiscal year that were received from the carriers. Certifications of coverage, monitoring of "Wrap-up" construction projects, registration of employee leasing organizations, and other special projects complete the responsibilities that are part of normal day-to-day operations.



Constituent Services



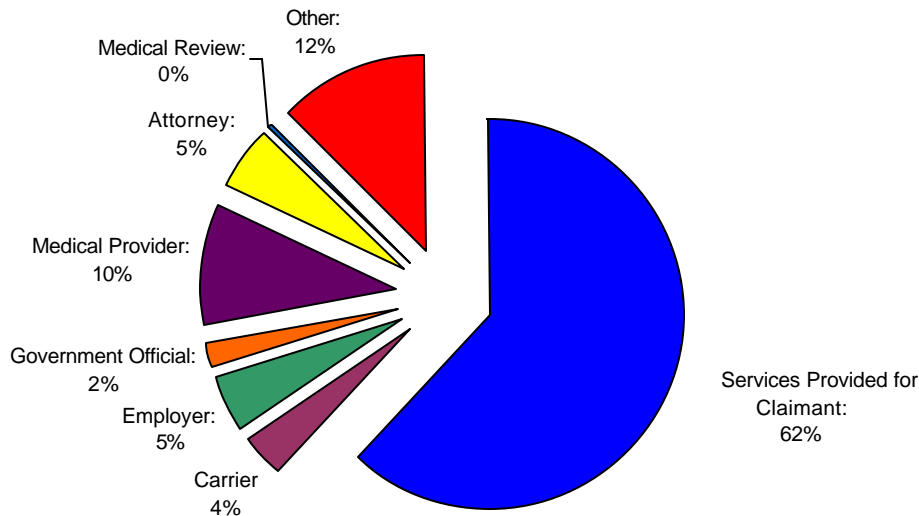
The Division of Ombudsmen and Workers' Compensation Specialists provides a centralized source of information and assistance. This Division directly services the needs of workers, employers, and members of the insurance and medical professions.

Toll-free assistance is available on topics such as how to file a claim, dispute resolution, various rights and procedures, as well as a wide range of medical related issues. The Division also receives and answers or directs inquiries through the Agency's Web site.

In addition to the Ombudsmen and the Workers' Compensation Specialists Services sections, the Medical Services section is also included in this Division. The primary focus is on medical cost containment and facilitating the vocational rehabilitation and independent medical evaluation services.

During the 2004-2005 fiscal year, the Division of Ombudsmen and Workers' Compensation Specialist Services continued to be proactive in providing assistance and information. They responded to 17, 236 requests. Most requests for assistance were completed within a week of initial contact. The chart below reflects a breakdown on the sources of those requests.

Breakdown of Assistance



The table below outlines the subject matter of these requests. The category represented by 'Other' includes such things as the attorney of record, the current mileage rate, the carrier/ insurance agent, and questions of a general nature.

Topics	Number of Calls
Rights and Procedures	9,774
Claims Status Request	2,745
Coverage	1,961
Other	1,165
Form Request	1,113
Referrals to Outside Agencies	947
First Report of Injury	788
Medical Fee Schedule	223
Claim Filing Assistance	202
Medical Fee Dispute	164
Unfair Claims Settlement Practice Investigation	142
Utilization Review	103
Fraud	72
Managed Care	26
Rehabilitation	13

Medical Services Section

Cost containment and the administration of medically related services are the primary activities of this section of the Office of Workers' Claims. Major programs and projects in this division this year included the following: Managed Care Plans; Utilization Review /Medical Bill Audit Plans; Fee Schedules; University Evaluations; "B" Reader Consensus Panel; and, Vocational Rehabilitation.

Managed Care

The Managed Care Unit is charged with the responsibility of approving and overseeing the operations of Managed Care Programs in Kentucky. During 2004-2005, there were 34 approved Managed Care Programs (MCP) in operation. MCPs emphasize controlling utilization of medical services through the use of provider networks, gatekeeper physicians, aggressive case management and coordination of medical treatment and return to work.

Approximately 34% of Kentucky's workforce (excluding agriculture) participated in Workers' Compensation Managed Care Programs this year. The 34 Managed Care Programs that were operational covered approximately 8,944 employers and 647,318 employees.

Today, almost ten years after managed care was first enacted, it still remains one of the most historically significant cost-containment measures in Kentucky's Workers' Compensation system. The close of FY 2004-2005 marks the beginning of a study of Managed Care to see what still works and what can be improved. This study is

expected to continue into FY 05-06 and will enlist the ideas and suggestions of Plan Administrators and insurance companies as the OWC looks at "Managed Care: The Next Phase."



Utilization Review and Medical Bill Audit

Since 1995 insurance carriers, self-insured employers and group self-insured funds have been required to implement a Utilization Review (UR) and Medical Bill Audit program and submit the written plan to the Executive Director for approval. The regulations were adopted to meet the objectives of improving medical treatment, reducing over-utilization of services, reducing litigation over medical matters, and facilitating the exchange of information between physicians and payors. During FY 2004-2005, 61 Utilization Review plans were in operation.

2005 Physicians Fee Schedule

In the Fall of 2005, a Workers' Compensation Medical Fee Schedule for Physicians was proposed to replace the October 15, 2001 edition. Per KRS 342.020, the intent of the Fee Schedule is for it to be "fair, current and

reasonable”..... “for similar treatment of injured persons in the same community for like services, where treatment is paid for by general health insurers.” The new Fee Schedule is expected to go into effect in January 2006.

Hospital Fee Schedule

Per 803 KAR 25:091, the hospital fee schedule governs the reimbursement for hospital charges in workers’ compensation claims. This schedule is calculated annually and becomes effective by April 1st of each year. Calculations are determined by using applicable figures taken from each facility’s cost reports (HCFA-2552) on file with the Cabinet for Health and Family Services. There were 146 hospitals in Kentucky this year. Out-of-state facilities, by regulation, are to be reimbursed in the same manner as Kentucky hospitals.

University Evaluations

OWC Medical Schedulers are responsible for the coordination of scheduling university evaluations at the University of Kentucky and University of Louisville (pursuant to KRS 342.315). Examinations are conducted in all hearing loss and occupational disease claims, and in claims by order of an Administrative Law Judge.

In FY 2004-2005 there were a total of 371 claims that required university evaluations. 205 were scheduled at the University of Louisville and 166 were scheduled at the University of Kentucky. Of these evaluations, 209 were for hearing loss claims; 119 were for injury claims; and 33 were for pulmonary claims.

Timely scheduling of university evaluations by the universities and preparing and sending reports are elements that are critical to the success of this program. In Spring 2005, this Division formed a committee to meet with the

universities and study ways to improve timeliness in scheduling of evaluations, the availability of ample qualified physicians, and the timely receipt of reports.

B-Reader Consensus Panel and Black Lung

Black Lung claims (coal-related occupational pneumoconiosis) require a chest x-ray interpretation by a National Institute of Occupational Safety and Health (NIOSH) certified “B” reader. If the interpretations filed by each party are not in consensus, the claim is forwarded for panel processing. In FY 2004-2005, there were 235 Black Lung claims referred for the panel process. The Office of Workers’ Claims is required to maintain a list of certified “B” readers (pursuant to HB 348). Medical Schedulers are responsible for processing the random selection of “B” readers, sending x-rays to the chosen panel of three, and recording and maintaining all reports.



Vocational Rehabilitation

In Kentucky, when an injured worker is unable to perform work for which he has previous training or experience, he shall be entitled to such vocational rehabilitation services, including retraining and job placement, as may be reasonably necessary to restore him to suitable employment.

During FY 2004-2005, the Vocational Rehabilitation Unit opened 246 new cases. Of these cases, 158 were ordered by an Administrative Law Judge and 88 were initiated by other means. Forty four claimants requested training during this period and approximately 29 of that group returned to work.



In the second quarter of the fiscal year, the Executive Director asked for a comprehensive review of the current Workers' Compensation Vocational Rehabilitation Program procedures. A Vocational Rehabilitation Focus Group was formed to find ways to strengthen the system and make it more efficient in facilitating the delivery of vocational rehabilitation services and return to work.

The Focus Group consists of several attorneys, a vocational rehabilitation industry professional, an insurance carrier representative, the Chief Workers' Compensation Administrative Law Judge, a Kentucky Office of Vocational Rehabilitation counselor and several OWC vocational rehabilitation professionals. Areas of study include: What's working? What's not working? How can we provide early identification of those candidates interested in Vocational Rehabilitation and keep the process from stalling? Can we build in incentives to obtaining GEDs?

At the conclusion of the Vocational Rehabilitation Study, which is expected early in 2006, the study and recommendations will be presented to the Executive Director for consideration.



Why not change your direction?

There are many avenues open to coal miners who are ready to leave the mines. If you have been awarded retraining incentive benefits there are numerous training/education routes available, you may even receive income benefits while you continue your education, plus possible bonuses upon completion. If you are ready to strike out in a new direction you should...

Explore new opportunities!

Call the Office of Workers' Claims in Frankfort, 1-800-554-8601 or

Louisville	Paducah	Madisonville	Pikeville
1-866-874-0006	1-800-554-8603	1-866-874-0005	1-800-554-8602

Classes are available across the state!

For more information on post secondary educational programs in your area contact

**Kentucky Higher Education
Assistance Authority**
1-800-928-8926
www.kheaa.org

**Kentucky Community and
Technical College System**
1-877-528-2748
www.kctcs.net

Under this program, you can qualify for up to 17 weeks of GED or other remedial training if needed prior to the post secondary training. For more information on GED and other adult education programs at a location close to you contact:

**Kentucky School Boards
Association**
1-800-372-2962
www.ksba.org

**Kentucky Department for
Adult Education and Literacy**
1-800-928-7323
www.kyae.ky.gov

Key Personnel*

* at time of publication

William P. Emrick, Executive Director (502) 564-5550, Ext. 4421

Wayne Logan (502) 564-5550, Ext. 4428
Office of Administrative Services

Sheila Lowther (502) 564-5550, Ext. 4422
Chief Administrative Law Judge

Carla H. Montgomery (502) 564-5550, Ext. 4464
General Counsel

Division of Security and Compliance

Phil Harmon, Director (502) 564-5550, Ext. 4526
Joe Peters, Coverage Branch Manager (502) 564-5550, Ext. 4448
Steve Taluskie, Self-Insurance Branch Manager (502) 564-5550, Ext. 4452
Tom Powell, Enforcement Branch Manager (502) 564-5550, Ext. 4450

Division of Information & Research

Deborah Wingate, Director (502) 564-5550, Ext. 4423
Dennis Langford, Assistant Director (502) 564-5550, Ext. 4483
Cheryl Douthitt, Records Branch Manager (502) 564-5550, Ext. 4477
Pat Phillips, Imaging Branch Manager (502) 564-5550, Ext. 4451
Howard "Cam" Lawson, EDI Administrator (502) 564-5550, Ext. 4540
Kim McKenzie, Web Administrator (502) 564-5550, Ext. 4484

Division of Ombudsmen & Medical Specialist Services

Sue Barber, Director (502) 564-5550, Ext. 4559
John Mann, Chief Specialist (502) 564-5550, Ext. 4532
Toll Free (800) 554-8601
Pam Knight, Medical Cost Containment Supervisor (502) 564-5550, Ext. 4449
Carole Jacobs, Utilization Review (502) 564-5550, Ext. 4445
Marilyn Thompson, Managed Care (502) 564-5550, Ext. 4539
Jerome Mahin, Rehabilitation (502) 564-5550, Ext. 4544

Division of Claims Processing & Appeals

Barbara Mook, Director (502) 564-5550, Ext. 4534
Diana Morgan, Appeals Branch Supervisor (502) 564-5550, Ext. 4457

OWC Fax Numbers:

Executive Director's Office (502) 564-5934	Claims (502) 564-3792
Administrative Services (502) 564-8250	EDI (502) 696-5096
Ombuds & WC Specialist (502) 564-9533	Security & Compliance (502) 564-0916
Open Records (502) 564-5732	WC Board Offices (859) 246-2779
Medical Schedulers (502) 564-5741	Vocational Rehabilitation (502) 564-9533

No individual in the United States shall, on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, be excluded from participation in, or denied benefits of, or be subjected to discrimination under any program or activity under the jurisdiction of the Kentucky Department of Labor.

This agency does not discriminate on the basis of race, color, national origin, religion, age or disability in employment or provision of services.

